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Business and Labor Committee  
February 09, 2015

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[LB306 LB334 LB493 LB627]

The Committee on Business and Labor met at 1:30 p.m. on Monday, February 9, 2015, in Room 2102 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB334, LB627, LB306, and LB493. Senators present: Burke Harr, Chairperson; Dave Bloomfield, Vice Chairperson; Sue Crawford; Laura Ebke; Jerry Johnson; and John McCollister. Senators absent: Ernie Chambers.

SENATOR HARR: Good afternoon and welcome to your Business and Labor Committee. My name is Burke Harr, and I am the Chair of the committee. I'm from Legislative District 8 representing midtown Omaha. We are here...we have four hearings today. We have LB334, LB627, LB306 and LB493. If you're here for any other bills, you're in the wrong place at the wrong time. (Laughter) I would ask you to please turn off your cell phones. If you're going to testify...it looks like we pretty much have regulars in here, but if you're going to testify, come towards the front before you testify. Fill out a green sheet, spell your name on the record. Spell your last name...state your name and spell your last name. Each testifier will be allotted five minutes before the committee. We use the light system. Green indicates you're free to go. Yellow means you have a minute, you probably need to sum up your argument, and red means finish your thought because your time has come to an end. And I will interrupt you if you go too long. To my left I have Jamison Wyatt, who is the committee clerk; to my right, Meghan Chaffee, she's legal counsel. We have two committee pages, Drew Schendt from Broken Bow, and Stefani Bradley from Kansas City, Missouri. And with that, I will let the members introduce themselves starting with Senator Ebke.

SENATOR EBKE: Laura Ebke, represent District 32, which is Jefferson, Thayer, Fillmore, and Saline and a little bit of Lancaster County.

SENATOR JOHNSON: Jerry Johnson, District 23, Saunders, Butler, and most of Colfax County.

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SENATOR BLOOMFIELD: Dave Bloomfield, District 17, Wayne, Thurston, and Dakota County and I am Vice Chair of the committee.

SENATOR McCOLLISTER: John McCollister, District 20, which is central Omaha.

SENATOR HARR: And today is a very special day in Business and Labor because we have been graced with the presence of the Chair of Appropriations. Senator Mello, would you like to begin?

SENATOR MELLO: Thank you so much. Good afternoon, Chairman Harr and members of the Business and Labor Committee. My name is Heath Mello, H-e-a-t-h M-e-l-l-o, and I represent the 5th Legislative District in south Omaha. I'm here today to introduce LB334 on behalf of the Department of Labor which would repeal the Nebraska Workforce Investment Act. On July 22, 2014 President Barack Obama signed into law the Workforce Innovation and Opportunity Act of 2014. The act repeals and replaces the Workforce Investment Act of 1998. The Nebraska Workforce Investment Act found in Sections 48-1616 to 48-1627 was written to comply with the federal version of the Workforce Investment Act of 1998. With the adoption of the Workforce Innovation and Opportunity Act of 2014, Nebraska statutes are no longer in compliance with existing federal law. LB334 would only remove language from the state statute that does not comply with the new federal law. Guidelines for the implementation of state laws regarding the Workforce Innovation and Opportunity Act are currently being developed by the United States Department of Labor. However, the U.S. Department of Labor has advised states that preliminary federal regulations for implementing the Workforce Innovation and Opportunity Act will be delayed until later this spring and the final regulations will not be published until at least January of 2016. Over the interim the Nebraska Department of Labor will be working with my office, other Workforce Development stakeholders and the U.S. Department of Labor to develop legislation that will comply with the new federal Workforce Innovation and Opportunity Act. Until federal

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guidance is received, implementation of the Workforce Innovation and Opportunity Act in Nebraska will proceed through executive order. After having conversations with the Governor's Policy Research Office and the Nebraska Department of Labor, I've drafted an amendment, AM283, for the committee to consider which simply adds an emergency clause to the underlying bill. Thank you for your time and I'd be happy to answer any questions you may have. [LB334]

SENATOR HARR: Any questions for Senator Lathrop...Mello. (Laughter) You have better hair, much better hair. (Laughter) Well, I do have a question then and I think I talked to you about it, but I just want to get this on the record. Are the Workforce Investment funds that will...what happens? Well, I guess, are there funds that will be unspent from the fund to begin with? [LB334]

SENATOR MELLO: The repeal of the Nebraska Workforce Investment Act does not direct or impact any of the federal funds we're currently getting from the federal government. Essentially, we will be operating under the auspice of the existing federal law. And as I mentioned, if there is anything that needs to be done in regards to further implementation of the federal law, we can do so. And they did this back in the early 2000s, late '90s, with then-Governor Johanns. We were in a very similar situation where they essentially created any implementation orders through executive order. And so, there's no fiscal impact to the bill. There's no federal funds that will be held up. A number of states across the country are in the similar situation that Nebraska is in and they are also looking and waiting for federal guidance over the interim to be able to craft their own state Workforce Innovation and Opportunity Act. [LB334]

SENATOR HARR: Which leads me to my next question. How many states have introduced a bill to repeal the Workforce Investment Act? [LB334]

SENATOR MELLO: You know what, Senator Harr, I don't have an answer to that, but in researching this, a number of other states did not take the same pathway Nebraska did

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in the late '90s, early 2000s, where a number of states did not create a mimicking or mirroring state act, so to speak, in the federal law. Some states did it within their existing rules and regulations process. Some created their own state Workforce Development law. We simply mirrored, essentially, a state version of the federal Workforce Investment Act and that's what we currently have in existing state law. So in that respects, we've got to do something and repealing it was arguably the quickest, easiest way for us to repeal the law, provide some time for Workforce Development stakeholders, other members interested in this federal law, to work on it over the interim with the Department of Labor. [LB334]

SENATOR HARR: Okay. Thank you very much. Any questions based on those? Seeing none, thank you, Senator Mello. [LB334]

SENATOR MELLO: Thank you. [LB334]

SENATOR HARR: Commissioner Albin, welcome, and congratulations on your new appointment. [LB334]

JOHN ALBIN: (Exhibit 1.) Thank you. Good afternoon, Chairman Harr and members of the Business and Labor Committee. For the record, my name is John Albin, A-l-b-i-n, Commissioner of Labor, and I'm appearing here in support of LB334. I would like to thank Senator Mello for introducing this bill on behalf of the Department of Labor. LB334 seeks to repeal the Nebraska Workforce Investment Act which was passed in 2001. The Nebraska Workforce Investment Act was passed to add a Nebraska flavor to the federal Workforce Investment Act of 1998. The federal Workforce Investment Act was repealed this past summer when the Congress passed and President Obama signed the Workforce Innovation and Opportunity Act, commonly known as WIOA. WIOA takes effect on July 1, 2015, but there are a number of implementation issues that remain up in the air and USDOL has been slow in providing regulatory guidance on implementation. The only thing that is sure is that the Nebraska Workforce Investment

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Act is not WIOA compliant. Hence our proposal to repeal it in total. It is possible for Nebraska to provide training to its citizens under WIOA without state legislation and, as Senator Mello mentioned, there is precedent for implementing without state legislation. The Workforce Investment Act of 1998 was passed in 1998, but Nebraska state legislation was not passed until 2001. In the interim, then-Governor Johanns issued a series of three executive orders, specifically Executive Orders 99-02, 99-04 and 00-02, which allowed Nebraska to implement the Workforce Investment Act of 1998. The department has done its due diligence by seeking specific guidance from USDOL as to whether state legislation is required in order to implement any provision of WIOA. It is their opinion that state legislation is not required. The Opportunity Act provided that USDOL was to issue regulatory guidance to the states no later than January 18, 2015. USDOL failed to meet that deadline and has informed the states that it will be sometime this spring before the initial proposed regulations are published. The final regulations implementing WIOA are not scheduled for issuance until January 2016. In addition, a number of states have expressed the need for specific guidance from USDOL on implementing certain provisions of WIOA. Rather than pass state legislation that makes an educated guess as to where USDOL will come down in its regulations, it is the Department's thought that any legislative action regarding WIOA should be deferred until USDOL issues its final guidances. Thank you for your time. I would be happy to try and answer any questions you might have. [LB334]

SENATOR HARR: Questions for the Commissioner? Seeing...oh, sorry. Senator Johnson. [LB334]

SENATOR JOHNSON: Thank you, Chairman. Thank you, Mr. Albin. This clarification again. So there's no risk to us by not acting on anything now. With this emergency clause everything is going to function as is. There's more risk at trying to fix something that isn't...we don't know what to fix yet. [LB334]

JOHN ALBIN: There is no known risk to proceeding under executive orders. We do

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need to get some executive orders drafted for Governor Ricketts' signature just like we did for Governor Johanns back in the day. But actually it's better that this is a total repeal because otherwise there's a state statute out there that we're not following and would like to try and follow statute, or the absence of a statute. [LB334]

SENATOR HARR: You and the Department of Corrections. (Laughter) Any other questions? Thank you for taking the time to come down and testify. It's always a pleasure to see you. [LB334]

JOHN ALBIN: Thank you. [LB334]

SENATOR HARR: Anyone else testifying as proponents? Welcome, Sarah. [LB334]

SARAH MOYLAN: Hello. Good afternoon, Chairman Harr and members of the committee. I am Sarah Moylan. That's S-a-r-a-h M-o-y-l-a-n, and I'm the director of talent and workforce at the Greater Omaha Chamber. I'm here today in support of LB334. We thank Senator Mello for bringing this to the committee as employers seek to fill...seek more people to fill positions and as positions require growing a specific set of skills, matching those employee's skills with employer needs becomes more critical than ever. We anticipate being a part of the stakeholder process going forward as Senator Mello and others work on crafting new legislation which meets the needs and requirements of WIOA, the Workforce Innovation and Opportunity Act. We support LB334 as the first part in this process, but commit to engaging in the development of a new bill in the future. Thank you. [LB334]

SENATOR HARR: Excellent. Any questions for Mrs. Moylan? None. Congratulations on your recent nuptials. Any other proponents? Opponents? Anyone wants to stand up to the Chair of Appropriations? No? Anyone in the neutral capacity? Seeing none, Senator Mello waives closing on LB334, but will return for LB627. [LB334]

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SENATOR MELLO: Good afternoon, Chairman Harr, members of the Business and Labor Committee. My name is Heath Mello, H-e-a-t-h M-e-l-l-o, and I represent the 5th Legislative District in south Omaha. I'm here to introduce LB627 which would amend the Nebraska Fair Employment Practice Act to provide for reasonable accommodation for pregnant employees in the workplace and prohibit workplace discrimination based on pregnancy. This is a commonsense bill that will keep women employed while protecting the health of their pregnancy so that they may provide for their families and it recognizes the legitimate interests of their employers. The heart of LB627 is in the addition of language in the two areas of statute within the Nebraska Fair Employment Practice Act. The first is in Section 48-1102 which define reasonable accommodations in the workplace for people with disabilities. This section would be amended to include reasonable accommodations with respect to pregnancy. Some of the accommodations would include acquiring stools or chairs for employees, additional break time, flexible scheduling, and temporary reassignment to less strenuous work. Reasonable accommodations for people with disabilities have been in federal law since the 1990 Americans with Disabilities Act and in Nebraska statute since 1993. So employers in Nebraska have already a quarter century of experience in providing for reasonable accommodations. The proposed accommodations for pregnant workers, while different, are modeled those that are already in place for workers with disabilities and they retain some of the same protections for employers with regard to undue hardship. The second main change that LB627 seeks to accomplish is to provide employment discrimination protections to pregnant women through the addition of language to Section 48-1107.01. The language proposed in this portion the bill, while different, is also modeled after the protections already provided for people with disabilities in the work force. I would like to give you a quick background as to why these specific additions need to be made to our existing state statute. In 1978, Congress passed the Pregnancy Discrimination Act which sought to prevent discrimination against pregnant workers by requiring that employers treat them in the same manner as "other persons not so affected but similar in their ability or inability to work." In 1984, the Nebraska Legislature passed LB14A which adopted that included that exact same phrase. While the intent on Congress and

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the state of Nebraska was to protect pregnant workers by specifically encompassing pregnancy, child birth, and related medical conditions within the prohibition against sex discrimination in employment, the specific language used to do so has proven inadequate. In the decades since the passage of the federal Pregnancy Discrimination Act and LB14A, increasing narrow interpretations of the comparative phrase "similar in their ability or inability to work" have been handed down by numerous courts. For example, just last month the Supreme Court denied a petition by Angela Ames in a case that made its way through the Eighth Circuit Court which also includes the state of Nebraska. Ms. Ames asked her supervisor for an accommodation that would also her breast...would allow her pump breast milk at work. Her supervisor told her to, quote, go home and be with her babies, end quote, and presented her with a prewritten letter of resignation and forced her to resign. The courts held that this was not sex discrimination because under certain circumstances, men can lactate too. The comparative language used in the federal law which is directly copied in Nebraska statute has been used to deny women the protections that were intended with the passage of the Pregnancy Discrimination Act of 1978. To bring this issue a little closer to home, I'll give you a specific case from Nebraska. For privacy reasons, I'm not going to use the person's real name. But in 2013, "Sarah" (phonetic) worked for a healthcare center in Nebraska where she was hired to do a job that described to her mostly as office work with occasional filling in for home care nurses. She was pregnant at the time she was hired. As her job progressed, her employer asked her to take on home care as her main responsibility which required more physical lifting. The additional lifting gave Sarah ligament pain and cramping. While her doctor instructed her not to lift more than 25 pounds for the remainder of her pregnancy, her employer told her that she was too much of a liability to continue working and forced her on to short term disability. By the end of her pregnancy, Sarah was left without pay or benefits and had to rely on Medicaid for health coverage when she gave birth. A reasonable accommodation as contemplated under LB627 would have allowed Sarah to be temporarily reassigned to less strenuous work keeping her job and off public assistance. Women have been forced to choose between continued employment and a healthy pregnancy, this



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situation that many Nebraska families simply cannot afford. According to the U.S. Census Bureau, in Nebraska, 78 percent of women are in the labor force, 73 percent of Nebraska families with children have both parents in the work force, and 70 percent of pregnant and new moms are in the work force. These numbers are all higher than the national average. LB627 will strengthen economic security by keeping women employed, insured, and providing for their young families. In many families, having an income earner stay home from work is simply not an option. And the Pew Charitable Trusts recently released a report entitled "The Precarious State of Family Balance Sheets." Among other findings from this report, 55 percent of American households are savings limited meaning that they are able to replace less than one month of lost income with their savings. Families with a pregnant income earner are not the only beneficiaries though of LB627. According to findings by the Job Accommodation Network, a technical assistance provider for the U.S. Department of Labor's Office of Disability Employment Policy, accommodations already provided under disability protections have been shown to be low to no cost. The temporary nature of pregnancy accommodations indicate that they would be similarly inexpensive. Providing accommodations for employees have also been shown to improve employee retention, morale, and productivity. Attempts to correct the narrow interpretations of discrimination and to provide for reasonable accommodations to reflect the original intent of the Pregnancy Discrimination Act through federal legislation has stalled in Congress. Over the last few years, several states have acted on their own initiative to provide these commonsense protection to pregnant women. Republican and Democratic governors in Delaware, Minnesota, Illinois, Maryland, and New Jersey have all signed legislation with strong bipartisan support similar to LB627. I do have an amendment for the committee to consider. You should all have received a copy AM232 which is a white copy replacement of the legislation that makes three small changes. It harmonizes some language in the discrimination section starting on page 9. It gives further clarification that women do not have to take an accommodation that they do not want to take. And it explicitly includes the expression of breast milk at work under the definition of a reasonable accommodation. Senators, right now there are pregnant women working in

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Nebraska and they are experiencing all the joy and excitement that a growing family brings. Talking about names, researching schools, reading baby books, but they're also all adding up to potential costs that may come down the road: day cares, insurance, car seats, pediatricians, and saving for college just to name a few. More women than ever are working into their ninth month of pregnancy to make those ends meet. LB627 is based on the belief that women shouldn't have to make an all-or-nothing choice between work and a healthy pregnancy, between insurance now and lower medical costs later. With this commonsense legislation, we can keep women in the workplace providing for their families while also protecting the health of their pregnancy. There are several testifiers that will follow me in support of LB627 including expert testimony on the legal history behind this issue and expert testimony on the medical situations in which pregnant workers may actually find themselves in. The committee should have also received letters of support on LB627 from the National Women's Law Center and from the March of Dimes. Thank you for your time and I'd be happy to answer any questions you may have. [LB627]

SENATOR HARR: Thank you, Senator Mello. Any questions for the senator? Seeing none, thank you for time. Are you going to stick around for closing? [LB627]

SENATOR MELLO: Maybe. We'll wait and see. [LB627]

SENATOR HARR: Okay. Anyone here to testify as a proponent on LB627? [LB627]

LIBBY CROCKETT: (Exhibit 1). Good afternoon, Senator Harr and members of the Business and Labor Committee. My name is Dr. Libby Crockett; that's L-i-b-b-y C-r-o-c-k-e-t-t, and I'm a practicing board certified obstetrician and gynecologist and I'm a faculty member of the department of OB-GYN at UNMC as well as a master's in public health student at UNMC. I am here today representing the Nebraska Medical Association in support for LB627, and I am not representing the university system or Nebraska Medicine. I was born in Minden, Nebraska, and currently live in Omaha. I

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have received all of my formal education through the university system including my medical school and my residency training. I plan to continue to practice medicine and public health in the state of Nebraska for the rest of my career. I currently have a very diverse clinical practice and take care of women literally of all ages, education levels, income levels, employment status categories, and ethnic and racial backgrounds. Despite this diversity, I see many commonalities of needs, especially when it comes to workplace discrimination against pregnancy and breast-feeding. While I myself do not consider pregnancy to be a disability, it is very clear that the normal changes of pregnancy cause women to be more susceptible to environmental factors that can induce health problems which can vary depending on her stage of pregnancy. Nausea and vomiting experienced by many women starting in early pregnancy and can last throughout the entire pregnancy requires access to more frequent water and snack breaks to manage symptoms and to reduce her risk for significant health effects from dehydration. Another common symptom in pregnancy is increased urinary frequency resulting from a combination of pressure of the growing uterus on the bladder and from an increase in the blood volume leading to higher kidney perfusion and increased urine production. Women who are not allowed to empty their bladder at appropriate intervals because of work restrictions are at increased risk for urinary tract infections, pyelonephritis, and preterm delivery. While physicians do advocate for patients to maintain healthy levels of activity in pregnancy, as a woman's body changes over the course of her pregnancy, there are certain factors that need to be considered for her health and safety. Although at this time there is lack of evidence to suggest that heavy lifting or prolonged standing in pregnancy has specific effects to the developing fetus, these circumstances do put the woman at increased risk of musculoskeletal injury, which is one of the most common reasons I see women for acute visits in my clinic besides just pregnancy. In addition, women in jobs with higher physical demands such as lifting and prolonged standing are at significant risk for falls which is the most common cause of workplace injury for pregnant women and places women at risk for placental abruption, preterm delivery, and pregnancy loss. In the technological age, many women face the opposite problem as well. Women forced to sit for prolonged

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periods of time during the prenatal and immediate postpartum period have increased risk for deep vein thrombosis and pulmonary embolism, which is a life-threatening condition. Therefore, it is important to consider that women who are not in highly physically demanding jobs may also need modified accommodations during pregnancy. During the later part of the second trimester and during the third trimester, the frequency of prenatal care visits increases with some women needing three visits per week depending on her health history. I recently took care of a woman with diabetes who was not able to adhere to the recommended schedule of antenatal visits and fetal monitoring because she was concerned that she would lose her job if she did, a job she needed to feed herself and her older children. It is a terrible position to be forced to choose between your job and your doctor's recommendations. In the postpartum period, considerations for breast-feeding are incredibly important. It is recommended by the World Health Organization that all infants be fed human breast milk exclusively for the first six months of their lives as this can have significant health benefits for both the infant and the mother. One of the most common reasons women tell me they were not able to continue breast-feeding was lack of workplace support. Low-income women are particularly vulnerable. I have one patient who is currently a refugee from South Sudan. She breast-fed her two older children, but because of her limited accommodations at work, is not planning on breast-feeding her third. During my years of clinical practice, I have had many stories about workplace discrimination. And many of these women are too scared to ask for work accommodations because they are worried about being forced to take unpaid leave or losing their jobs completely. I have included an article from the Boston College Law Review that talks about pregnancy as a disability and the amended Americans with Disabilities Act I encourage you to look at. But it's unfortunate because the employers...it has been shown that employers who do provide appropriate support and accommodations during pregnancy and breast-feeding are more likely to retain skilled employees after childbirth, have employees that utilize less sick time, and consequently these employers experience less economic losses and see increased productivity. Thank you. [LB627]

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SENATOR HARR: Thank you, Dr. Crockett, for coming down here. Are there any questions? Seeing none, thank you for your time. I appreciate it. Next proponent.  
[LB627]

RODNEY D. VLCEK: Good afternoon, Chairman Harr, members of the Business and Labor Committee. My name is Rodney D. Vlcek spelled R-o-d-n-e-y D. V-l-c-e-k, and I am president, secretary/treasurer of the Nebraska State AFL-CIO, which is American Federation of Labor and Congress of Industrial Organizations. We want to thank Senator Mello for introducing LB627. We are fully in support of LB627. Just on the grounds that with respect to disability: "Reasonable accommodation, with respect to pregnancy, shall include acquisition of equipment for sitting, more frequent or longer breaks, periodic rest, assistance with manual labor, job restructuring, light duty assignments, modified work schedules, temporary transfers to less strenuous or hazardous work, time off to recover from childbirth, or break time and appropriate facilities for breast-feeding." As the previous speaker said, no woman should have to worry about taking unpaid time leave off or the possibility of discharge due to her being pregnant. So with that, I will be happy to take any questions. And again, we are in support of LB627. [LB627]

SENATOR HARR: Great. Thank you very much. Any questions? Senator Johnson.  
[LB627]

SENATOR JOHNSON: Thank you, Senator Harr. A question that might go back, it might not go back prior to the conception, going back to employment and let's say that we're hiring people and there's a 30-year-old lady that's applying and also a 50-year-old lady applying. And this comes into effect. Do you think they will look at this as being more negative toward the employer having more cost, more accommodations to have to make and might hire the older person versus the younger person? Is that a discrimination reverse age, or how...? [LB627]

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RODNEY D. VLCEK: Senator, I would hope they would go on the qualifications of the individual that applied and not look at the situation of being older or younger. It should be just under the qualifications. That being said, that could happen. They would have to take that into account before they make the determination of who they're going to hire. [LB627]

SENATOR JOHNSON: Is there any way to quantify that and go back and prove that they might have discriminated based on this? [LB627]

RODNEY D. VLCEK: I would think the courts would probably have to decide that if a lawsuit came about on that. [LB627]

SENATOR JOHNSON: Yeah, okay. Just curious. Thank you. [LB627]

SENATOR HARR: Thank you, Senator Johnson. Any other questions? Seeing none, thank you. [LB627]

RODNEY D. VLCEK: Thank you. [LB627]

SENATOR HARR: Proponents, any additional proponents? [LB627]

AUBREY MANCUSO: (Exhibit 2) Good afternoon, Senator Harr, members of the committee. My name is Aubrey Mancuso, A-u-b-r-e-y M-a-n-c-u-s-o, and I'm here on behalf of Voices for Children in Nebraska. We're in support of LB627 because it ensures that our laws are consistent with the Nebraska values of both family and hard work, and it ensure that working women can maintain the financial security of their families while pregnant. Nebraska has a high overall employment rate and high numbers of women in the work force. Approximately 71 percent of women who give birth in Nebraska in a given year are working. In many cases, women today are the primary earners in their household or significantly contributing to family income. In 2010, about two-thirds of

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mothers were the primary or cobreadwinners in their family. And when job related accommodations aren't made for pregnancy, it can put families in a challenging financial position at a time when their household expenses are about to increase. According to the USDA, a U.S. family will spend an average of about \$12,000 on a baby during their first year of life. When a family's financial stability is compromised because of pregnancy, it can also increase the likelihood of needing public assistance programs. And I think that the story that Senator Mello shared in his opening illustrated how that can happen. Stressful life events during pregnancy are also associated with an increased risk of preterm birth. Nebraska's most recent data on pregnancy monitoring indicates that 22 percent, or over 1 in 5 pregnant moms, were stressed about paying bills during pregnancy. Most of the accommodations required for pregnancy are of minimal cost to the employer. And since pregnancy is always a temporary condition, there can be benefits to both the employer and employee in being able to retain the worker in the long term. In addition, pregnant workers represent only a small portion of the Nebraska work force at any given time, so the impact overall should be...is unlikely to be significant. Pregnant workers comprise only about 1.8 percent of the overall Nebraska work force in any given year. LB627 is a policy that supports both work and family and we would urge the committee to advance the bill. Thank you. I'm happy to take questions. [LB627]

SENATOR HARR: Thank you, Ms. Mancuso. Any questions? Seeing none, thank you. Any additional proponents of LB627? Senator Conrad, welcome. [LB627]

DANIELLE CONRAD: (Exhibit 3) Chairman Harr, members of the committee, hello. Good afternoon. My name is Danielle Conrad; that's D-a-n-i-e-l-l-e, Conrad, C-o-n-r-a-d. Today I appear on behalf of the ACLU of Nebraska. The address is 941 O Street, Suite 706, Lincoln, Nebraska, 68508. Honorable Senators, the ACLU of Nebraska is a nonprofit, nonpartisan organization that works to defend and strengthen the individual rights and liberties guaranteed in the United States and the Nebraska Constitutions through policy advocacy, litigation, and education. We currently serve over 2,000

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members and supporters throughout our great state and represent more than 500,000 members nationwide. Last biennium, our organization took a position on over a hundred unique pieces of legislation and our position prevailed an impressive 68 percent of the time. Since 1972, the ACLU's Women's Rights Program has been working to secure gender equality and to ensure that all women and girls are able to lead lives of dignity that are free from violence and discrimination. This legislation fits squarely within the ACLU's work to end the gender wage gap and eliminate sex discrimination. Women lose pay when they are deprived of opportunities to advance to higher paid jobs and are pushed out of work altogether because of an employer's refusal to accommodate needs that may arise as a result of pregnancy. As such, we respectfully ask that this testimony and the letter that we distributed be included in the official record for LB627 in a supportive proponent capacity. We thank Senator Mello for his leadership on this important issue and extend our gratitude to the impressive list of cosponsors that are supporting this effort. To provide a little background on the topic, most people believe that the days when women were fired for being pregnant are long behind us.

Technically, that's true. It is illegal to fire women simply for being pregnant. Currently, the federal Pregnancy Discrimination Act prohibits discrimination on the basis of pregnancy and requires employers to treat pregnant women as well as they treat other employees who are similar in their ability or inability to work. And a handful of state have similar provisions on the state level. So it's different in practice. And that's why we're here today. Many women are still pushed out of the workplace essentially for being pregnant. Some courts have interpreted current law to mean while a woman cannot be fired for being pregnant, she can be fired for needing a reasonable accommodation in order to safely work while pregnant. The examples that you've already heard today we'll reiterate, like carrying a bottle of water in order to stay hydrated, maybe having temporary light duty assignment, the ability to sit down, more frequent break time for bathrooms, and other provisions. The lack of pregnancy accommodations disproportionately affects low-wage women, women working in male-dominated sectors, and women working in caretaker fields, many of whom are immigrants and women of color. You can see in our testimony there's a list of different types of employees that the



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ACLU has represented in a variety of cases nationwide and that other organizations have been involved in advocating for as well. I want to draw your attention, as I'm sure our time is getting close to the buzzer, to the recent Young case that's pending before the United States Supreme Court where the ACLU was involved as amicus. And that case I think very well helps to point out the need to evolve our employment protection discrimination statutes on the federal level and the state level to ensure that the original intent of those laws is being met, and to provide much needed clarity to both employees and employers who are dealing with this issues in the modern workplace. And as you can see through the remainder of our written testimony, different courts have indeed come to different conclusions about the interpretations and applications of some of the existing provisions in state and federal law. But the good news is many states have begun to act to modernize and clarify laws to address these issues. As of December 2014, 12 states and 5 major cities have already updated their laws to clarify employment protections for pregnant employees like Senator Mello is attempting to do in LB627. These efforts have enjoyed broad support not only across the political spectrum from policymakers, but have attracted a very diverse coalition of medical groups, women's groups, religious leaders, pro-life leaders, and others to come forward and stand for the proposition that women in today's day and age, or in any day and age, should not have to choose between a healthy pregnancy and their job. You can see in the very remaining aspects of our testimony, we've listed some additional policy reasons for your consideration. Thank you. [LB627]

SENATOR HARR: Great. Thank you. Senator McCollister. [LB627]

SENATOR MCCOLLISTER: Nice to see you, Senator. Thank you, Mr. Chairman. The fiscal note indicates there will be about 60 more cases brought before the commission. How many cases existed under the existing legislation? Do you have a sense of that? [LB627]

DANIELLE CONRAD: You know, we had an opportunity to...a couple things. I'm glad

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that you did point out the fiscal note, Senator, because I think that that demonstrates that while there is some impact, it is a nominal impact, a very low-cost option for Nebraska to consider to ensure that we can update our laws. Secondly, we had an opportunity to analyze existing case law in the Eighth Circuit specifically, which Nebraska is a part of. And there's been a handful of decisions out there with varying results about these issues. So I think that the number itself might be a little high, but we have no reason to disagree. And even if taken at face value, we still feel that it's a very low-cost alternative for Nebraska to consider to provide clarity. And clarity, of course, is always much cheaper and more certain than litigation ever could be for both employees and employers. [LB627]

SENATOR MCCOLLISTER: So would the existing caseload be somewhere around 60 and we're looking at doubling? [LB627]

DANIELLE CONRAD: Again, we'll defer to the NEOC's analysis as provided in the fiscal note in that regard. But I would estimate if I had to that that would probably be a high-end estimate rather than a low-end estimate. And you know, the experiences that we can look to in other states demonstrate again that this type of legislation provides much needed clarity and in many instances, reduces the needs for investigation or litigation. [LB627]

SENATOR MCCOLLISTER: Thank you, Senator. [LB627]

SENATOR HARR: Thank you. Senator Bloomfield. [LB627]

SENATOR BLOOMFIELD: Thank you, Chairman. Senator Conrad, we have in here what I've always kind of referred to as a lawyers full employment guarantee. [LB627]

DANIELLE CONRAD: Thank goodness. (Laugh) [LB627]

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SENATOR BLOOMFIELD: The word "reasonable" always bothers me a little bit when I see it in the bills and in the laws. Who determines what's reasonable and how many millions of dollars are involved in determining what's reasonable for a business versus what should happen for a woman? [LB627]

DANIELLE CONRAD: You're right, Senator Bloomfield, that that's a term that we see frequently in a variety of different statutes of section and that is frequently at issue in a variety of different litigation contexts. But you know, overall, policymakers and courts look to that to provide a commonsense standard about what the average employer or employee would respect. That's the kind of reasonableness description that's usually part of the evaluation. Now granted, that's subjective. There's no way to disagree with that and that's why it's subject to additional legislation and litigation in many instances. But I think what we're talking about is striking an appropriate balance between the needs of the employees and the employers as noted with the undue burden test that's contemplated in the legislation. And overall, we want people to act in a commonsense, reasonable way and to...and I think that that's the appropriate standard to use. [LB627]

SENATOR BLOOMFIELD: I think that was probably an appropriate attorney answer. (Laughter) You mentioned carrying a bottle which no one would have an argument with. The next person along might say it's reasonable to expect them to build down a whole new room to accommodate this woman. And that's where I have an issue. And we're not going to solve it here. It would be the courts to do it when it gets to that. So thank you. [LB627]

DANIELLE CONRAD: Yes. Thank you, Senator. [LB627]

SENATOR HARR: And thank you, Senator Bloomfield, for admitting you're afraid of the word "reasonable." [LB627]

SENATOR BLOOMFIELD: Only when it's used by an attorney. (Laughter) [LB627]

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SENATOR HARR: Any questions over here? Senator Crawford. [LB627]

SENATOR CRAWFORD: Thank you, Chairman Harr, and thank you for your testimony. I wondered if you would just help us by walking through say the case for Peggy Young. It happened. We pass this bill. It happens next year. So how does this bill change what happens in that case? [LB627]

DANIELLE CONRAD: Right. So the Young case was recently certified and argued before the United States Supreme Court after a particularly restrictive reading of federal law resulted in Fourth Circuit action on the case. And the basic facts of that case, which most will be familiar with through media reports and otherwise recently since it was so high profile, is the employee in question working for UPS had some needs in relation to her pregnancy and asked for a light-duty assignment to accommodate those medical necessities. The company disagreed and failed to provide those accommodations even though it did provide similar accommodations to other employees for different reasons. And so the Supreme Court is now taking a look at whether or not that was a reasonable assessment by the employer and we're awaiting a decision in that regard. I think if the Nebraska Legislature were to move forward with legislation like LB627, it would provide much clearer guidance to employers like UPS and to employees like Peggy Young to say that medically necessary conditions of pregnancy such as requesting light duty for a temporary period of time should be honored. [LB627]

SENATOR CRAWFORD: Thank you. One follow-up question, have any of the laws such as this been in place in other states long enough for us to see them play out in the courts yet? [LB627]

DANIELLE CONRAD: Senator, I'll have to double-check our research, but I don't believe so. I think most states and municipalities have acted very recently because of the uncertainty that exists in the legal landscape and have worked to modernize and

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update their bills just like we're looking at doing here in Nebraska. But I think most of those recent updates have been very recent and so probably don't have a long enough track record for evaluation to see if we could determine if it was a source of litigation or additional investigations. But we'd be happy to double-check that and will circle back with the committee with that information. [LB627]

SENATOR CRAWFORD: Thank you. [LB627]

SENATOR HARR: Thank you, Senator Conrad, Senator Crawford. Senator McCollister. [LB627]

SENATOR MCCOLLISTER: I was just going to mention, I think UPS subsequently changed their work practices to accommodate pregnant women, if I recall. [LB627]

DANIELLE CONRAD: I believe that's correct, yes. [LB627]

SENATOR MCCOLLISTER: Okay. Thank you. [LB627]

SENATOR HARR: Thank you. Any other questions? If not, thank you, Senator Crawford (sic), for returning. [LB627]

DANIELLE CONRAD: Senators, thank you very much for your time. [LB627]

SENATOR HARR: Nice to see you. [LB627]

DANIELLE CONRAD: You know, this was my first appearance before the Legislature in my new role. So thank you for your kind attention and kindness with your questioning. [LB627]

SENATOR HARR: Well, don't be a stranger. Any other proponents on LB627? All right.

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Any opponents? Anyone testifying in a neutral capacity? Senator Mello waives closing. Thank you. And we do have a couple of items for the record for LB627. [LB627]

JAMISON WYATT: (Exhibits 4-6.) Yes, as proponents we have Barbara Albers with Equal Opportunity Commission; we have a letter from Emily Martin with the National Women's Law Center; and also Mary Larsen with the March of Dimes Foundation. [LB627]

SENATOR HARR: Thank you and that closes LB627. The next two bills are Senator Nordquist's and I do not see him here. So if you'd like, why don't we take a five-minute recess and we'll reconvene at 1:20. Thank you. [LB627]

BREAK

SENATOR HARR: I think we're ready to reconvene with the appearance of Senator Nordquist here, who is walking. Senator Nordquist, if you'd like to introduce LB306. [LB306]

SENATOR NORDQUIST: I sure would, Chairman Harr, thank you. Members of the Business and Labor Committee, I'm state Senator Jeremy Nordquist from District 7 which is downtown in south Omaha, and here today to introduce LB306, the intent of which is to harmonious provisions in the Conveyance Safety Act to make elevator mechanic licensure requirements consistent across the state. Currently commercial conveyances are inspected through inspectors at the Department of Labor and this requirement is consistent across Nebraska. The Conveyance Safety Act requires that the construction, operation, inspection, testing, maintenance, alteration, and repair of conveyances be completed by licensed elevator mechanics only in Douglas, Lancaster, and Sarpy Counties. The intent of this bill is to make the requirement consistent statewide. Keep in mind the requirement is only for operational aspects of the conveyances and does not include simple alterations to the conveyances such as

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changing a light bulb. You don't have to have an elevator mechanic come out and do that for you. There are 38 states that license mechanics, 20 states that license inspectors, and at least 35 states that license contractors. I believe public safety should be consistent across Nebraska. According to the Consumer Product Safety Commission incidents involving elevators and escalators kill 31 people annually and seriously injure about 17,000 more in the United States. Half of the annual deaths are people working in or near elevators, including those installing, repairing, or maintaining elevators. With this bill we're attempting to strike a balance between public safety and limited regulation. To that end, we continue to exclude agricultural conveyances, and conveyances in private residence only need to be inspected upon the installation or the transfer of property, or at the request of the property owner. There certainly might be questions about the work...the Workforce in the state, and there will be people after me that can talk about the distribution and the quantity of elevator mechanics around the state. But right now, outside of Douglas, Sarpy, and Lancaster County, me and Senator Bloomfield can moonlight in elevator installation and construction and repair and I don't know about Senator Bloomfield, but I certainly am not qualified to do that. And I think it's time that we look at addressing that shortcoming in our laws and I'd appreciate your consideration of the bill. Thank you. [LB306]

SENATOR HARR: Thank you, Senator Nordquist. Are there questions for the Senator? Senator McCollister. [LB306]

SENATOR MCCOLLISTER: Thank you, Mr. Chairman. Welcome, Senator. Do we have examples of accidents or anything else that occurred that would create a pressing need for this legislation? [LB306]

SENATOR NORDQUIST: Certainly around the country there are. There was an incident in North Platte. I don't know remember the year on it here. It was in a...I believe it was either a private residence or residence above a commercial building. So if it was in the private residence, it wouldn't have been a problem but a lady wheeled into a...it had a

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sliding door on it, she was in a wheelchair, wheeled in, button was pushed, and they were not aware that the elevator was up, it came down and crushed her. This was a few years ago, but it was due to a deficiency in the sensor on the door, is my understanding. But if it was in private...if it was...and I can't remember specifics now, it was probably, I would say, three or four years ago. But if the...if it was in the complete private residence, then it only would have had to been inspected under this bill upon installation and not at anytime after that. [LB306]

SENATOR McCOLLISTER: How often would inspections occur? [LB306]

SENATOR NORDQUIST: I believe...I believe they are annual inspections, but this is more on requiring that the people doing the installation and the repair work and everything be licensed individuals. So that's...we want to make sure that people, especially in commercial buildings where the public is going and may not be aware about the quality of the workmanship on the elevator, escalators, we want to make sure that qualified people are doing the installation to make sure that there's a level of public safety. [LB306]

SENATOR McCOLLISTER: I mean, the bill shows a forty-five or fifty thousand dollars (inaudible) so do you...does the state happen to know where all of the elevators are in the state? Or do they intend to grandfather all the elevators that are in existence now? [LB306]

SENATOR NORDQUIST: No, I don't anticipate that. That's a good question, though. I don't know how the Department of Labor does it right now for Douglas, Sarpy, and Lancaster, because, I mean, you think obviously the bulk of the elevators in the state are in those three counties and somehow they're able to track it now. I don't know. That's a good question that I'll try to get an answer to. [LB306]

SENATOR McCOLLISTER: So when somebody does a work...a construction permit, is



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that what triggers evidence of an elevator that needs inspection on installation? [LB306]

SENATOR NORDQUIST: For the installation to happen, I believe that that's right, to inspect the installation. But as far as, you know, if an elevator breaks down and you're in North Platte, you can call Dave Bloomfield and me to come out and fix it. If you're in Douglas, Sarpy, or Lancaster, you need to have a licensed mechanic come out and fix it. So on, on that issue, I don't know how the department is tracking that in those three counties. [LB306]

SENATOR McCOLLISTER: Thank you. [LB306]

SENATOR HARR: Thank you, Senator McCollister. Senator Bloomfield. [LB306]

SENATOR BLOOMFIELD: Thank you, Chair. Senator Nordquist, beings you've got me running all over the state fixing these elevators... [LB306]

SENATOR NORDQUIST: Yeah, no, it might be a nice little supplemental income for you. (Laughter) [LB306]

SENATOR BLOOMFIELD: Who needs supplemental income with all the money we make? (Laughter) What would that license cost you to get and what requirements would you have to meet to be a licensed inspector? [LB306]

SENATOR NORDQUIST: There are folks behind me, but there is apprentice...usually an apprenticeship-type program. I don't know what the current fees are. I know that they recently increased the inspection fee up in the department. They have the discretion to do that. As far as being a licensed mechanic, I don't have that information in front of me. [LB306]

SENATOR BLOOMFIELD: Okay, if I go to sell my private home to another individual, I

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believe under this bill I would have to have it inspected. [LB306]

SENATOR NORDQUIST: Yep, on transfer of property. [LB306]

SENATOR BLOOMFIELD: What's that going to cost me? [LB306]

SENATOR NORDQUIST: The inspection is, I believe...it says \$319 per unit is what the fiscal note shows. [LB306]

SENATOR BLOOMFIELD: This would be a discussion for later but it seems to me like we've got a little more government overreach going on here, but thank you. [LB306]

SENATOR HARR: Any other questions? Senator Crawford. [LB306]

SENATOR CRAWFORD: Thank you. Senator Nordquist, have you heard or do you know why it was originally just limited to the three? [LB306]

SENATOR NORDQUIST: Yeah, I've been working on this issue since I was a legislative staffer starting back in 2004, (laughter) and it very much was a political compromise at the time. [LB306]

SENATOR CRAWFORD: I figured that. Okay. Thank you. [LB306]

SENATOR HARR: And what was that...why do we treat three counties different than the rest of the state? [LB306]

SENATOR NORDQUIST: Well, I think initially there was concern about the capacity of licensed elevator mechanics to reach around the state and get to where they need to be and we knew that most of them were in Omaha, Lincoln, and Lancaster and Sarpy County. I think there is evidence now that there is sufficient workforce and people

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behind me can talk about where those...where the licensed mechanics are located and being able to reach and cover the state fully. [LB306]

SENATOR HARR: And have there been any complaints about the burdens of being too heavy on Douglas, Sarpy, or Lancaster County? [LB306]

SENATOR NORDQUIST: I certainly haven't heard any of that, but. [LB306]

SENATOR HARR: Okay. Senator Johnson. [LB306]

SENATOR JOHNSON: Thank you, Chairman. Not being in one of those three counties, I'm not familiar with...the inspection I'm fine with that and I know there's some cost so that there's a fee. If there's repairs needed, is it going to require the licensed inspector to be there as part of the crew, or can that be done by another agent company, and the inspector inspect that? Is there a re-exam...or he has to come back again, how does that process work? [LB306]

SENATOR NORDQUIST: I would probably defer that to some of the folks behind me. I think the...I think it probably depends on the extent of that work. But I... [LB306]

SENATOR JOHNSON: Okay, I'll defer. Thank you. [LB306]

SENATOR NORDQUIST: ...don't think it is necessary in every instance by any means. [LB306]

SENATOR HARR: Senator Ebke. [LB306]

SENATOR EBKE: The licensed inspector can also be part of the repair? Is that correct? [LB306]

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SENATOR NORDQUIST: Right, because we've been contracting out rights for that inspection. [LB306]

SENATOR EBKE: Okay, because I know that...I'm outside of the three-county area, but we do have an elevator in my church and we've had...we've ended up with service contracts where they come out and inspect every year and do the repairs on the stuff. [LB306]

SENATOR NORDQUIST: That's right. That's right. [LB306]

SENATOR HARR: Thank you, Senator. [LB306]

SENATOR NORDQUIST: Thank you. [LB306]

SENATOR HARR: Any other proponents or proponents on LB306? Welcome to your Nebraska Business and Labor Committee, sir. [LB306]

BOB SACKETT: (Exhibit 1.) Thank you. Bob Sackett, S-a-c-k-e-t-t. I believe the intent of this law is very, very good. I serve on the Elevator Safety Board. I'm a licensed mechanic in the state of Nebraska and I own my own company. I think in this law there's...given a little history, back when this bill was first introduced, we removed the requirement for wheelchair lifts from the law and inspections. And I think that the general public deserves the right and expectation that when they get on to a conveyance like a wheelchair lift, that it has been properly installed and inspected. Currently, the small people outside of completely in Nebraska that have wheelchair lifts aren't getting that benefit. So that's one thing. I passed out a sheet that I think there might need some clarifications in the law. One place it says that the law will not require residential elevator inspections. Then one section it says it will. Then in another place, they're exempt. And I'm not a lawyer and that's just something that I think needs to be cleared up in that law. [LB306]

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SENATOR HARR: And for the record, there is an amendment Senator Nordquist has to clear some of that up, so thank you. [LB306]

BOB SACKETT: Let me give you some examples that I know personally about accidents in wheelchair lifts. They mentioned the person in western Nebraska where it was a homemade wheelchair lift. It wasn't manufactured by any national company so there are no standards there. Personally, I witnessed a bar in Omaha that bought their wheelchair lift off the Internet and the bar is the absolutely worst situation for any kind of conveyance. And the riders were riding up on this device and they had overloaded one side and rammed the platform into the doorframe and if it was installed correctly, there wouldn't have been that problem. But somebody could easily lost a hand or head due to that accident. A few years ago I was in church and my minister asked everybody to pray for everybody. There was a young man that actually rolled off the end of a wheelchair lift and just kind of shot off and went down and so there have been numerous accidents. And I truly believe that with proper inspection and maintenance of this equipment, these problems could be avoided or cut down. Two truths about elevators are, one, if it moves it's going to break. I don't care what person's equipment it is. And the second one, people are cheap. I've gone back to these wheelchair lifts in various places and told them they need to put their phone back in. They said, well, it's not covered by the law anymore. Well, there's a possibility that if Mrs. Smith comes to church late one day and decides she's going to work upstairs and gets stuck on the elevator, the phone doesn't work, she could be there for days in some of these smaller towns. And basically they're doing it because they're cheap, because they don't want to pay for that extra line into the church. And I've gone into places where the members have taken on to their own to jump and bypass door safeties and things like that that conceivably somebody could open up the door and walk off into nothing. So I truly think the intent of this bill is just fantastic. People need to be protected in this state. And if there's any questions, I'll be happy to answer them. [LB306]

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SENATOR HARR: Thank you, Mr. Sackett. Any questions for Mr. Sackett? Senator Johnson. [LB306]

SENATOR JOHNSON: What do you think of the...are we going to be able to handle the whole state? [LB306]

BOB SACKETT: Without a doubt. I've got equipment all across the state. I plan routes that I hit like West Point, Beemer, and I charge my customers appropriately. I don't charge them deadheads, like if I'm coming from Omaha to Beemer, then Omaha to West Point, I just kind of go bing, bing, bing, bing and hit that. The elevator inspectors can do the same thing. You know, it can be just right on the fly as they drive by. It doesn't take a great deal of time to inspect a wheelchair lift but it does need to be inspected. So I don't think the cost for the end customer if they're treated fairly, but that's up to them to shop. You know, if they select a company that charges them deadhead there and back and they get on the phone and ask again, well, what you charge me to do this? Then, it's up...they need their diligence to make sure they're getting good pricing as far as the local vendors. [LB306]

SENATOR JOHNSON: Well, I guess, my concern, West Point and Beemer, it's a very small part of covering the whole state. [LB306]

BOB SACKETT: Right. [LB306]

SENATOR JOHNSON: I need to find out if every place within the state...North Platte was mentioned earlier, are we going to be able to cover those in a reasonable price and time frame? [LB306]

BOB SACKETT: Well, I can't speak for other companies. I know what I charge and I know the coverage area I cover. I know that a lot of the bigger companies have people stationed in North Platte and Grand Island and things like that so they don't have the

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expense of the deadheads out of Omaha. But I have to...when it comes down to money and expense and safety, safety has to trump money. I think that if somebody loses an arm or limb, there's not going to be enough money to replace that. And I know it's a burden on some small churches because they don't have a lot of money but they need to budget for that. [LB306]

SENATOR JOHNSON: Thank you. [LB306]

SENATOR HARR: Thank you, Senator. Senator McCollister. [LB306]

SENATOR MCCOLLISTER: You operate a company and how many companies of your kind operate throughout the state? [LB306]

BOB SACKETT: Half dozen to a...I mean, ten, twelve companies. I deal primarily in accessibility products, the stairway lifts, the wheelchair lifts and light-duty elevators. A lot of my competitors do the whole gamut. [LB306]

SENATOR MCCOLLISTER: And your company operates throughout the entire state? [LB306]

BOB SACKETT: Yeah, we try to limit ourselves because we want to be able to give excellent service. We want to...if you call me tomorrow, I want to be there tomorrow, you know, the next day to get you up and running because I understand how important it is to be able to get people in and out of buildings. [LB306]

SENATOR MCCOLLISTER: How many companies operate out of Chadron? [LB306]

BOB SACKETT: I do not know, sir, because I don't cover that but I also know that there are companies that come from outside the state to cover the western part of the state. [LB306]

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SENATOR McCOLLISTER: And their license would be appropriate, or...? [LB306]

BOB SACKETT: I believe there is reciprocity that if you have a license in another state you can work in the state. [LB306]

SENATOR McCOLLISTER: Would this requirement apply to the chairlifts on automobiles? [LB306]

BOB SACKETT: No, it doesn't. [LB306]

SENATOR McCOLLISTER: Do you have a list of approved vendors for these lifts that...? [LB306]

BOB SACKETT: It's not so much a list of approved vendors. A quality...qualified vendors meet a code in a testing program and on their product it will say, needs or exceeds 18.1 for like wheelchair lifts or whatever part. So if you don't see, for example, there's companies in California that bootleg stuff into Nebraska off the Internet that don't meet that code, but people are putting them in anyway because they're buying it off the Internet and saving a couple of bucks. [LB306]

SENATOR McCOLLISTER: Does Nebraska have an approved list of vendors? Or manufacturers? [LB306]

BOB SACKETT: I think...no such list exists. It's up to the vendors or the manufacturers to meet the national code. [LB306]

SENATOR McCOLLISTER: What does the typical service call costs? [LB306]

BOB SACKETT: If I do it like I told the Senator, if it's in line, it's between \$85 to \$120 for



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routine maintenance. If I can...if I can go from town to town to town to town to town, but if you call me up, yeah, there's going to be some additional expenses if I have to come out of Omaha. And generally I pick up the phone and try to pick up some business to work my way back and out to kind of spread the cost for the customers. I can't speak for other vendors, but that's what I try to do for my customers. [LB306]

SENATOR McCOLLISTER: If I operated a church or a nursing home elevator, calls you on a Sunday morning, what would happen? [LB306]

BOB SACKETT: In Chadron? [LB306]

SENATOR McCOLLISTER: We'll say Beemer because that seems to be the city of choice. (Laughter) [LB306]

BOB SACKETT: Okay. Well, first off, I would probably be there the next day, okay, unless it was a true emergency. We've been really blessed that the equipment and the quality of equipment that I put in, if it's maintained, aren't a lot of problems. Okay. So we don't get a lot of calls Sunday morning that we can't get our people into church because a lot of the customers do do the preventive maintenance and things like that to prevent the emergency. But you're looking at...if I have to drop everything and go out on a Sunday because there's an issue, you know, you're looking at three or four hundred dollars. But a lot of times if somebody is stuck on a wheelchair lift, I can walk whoever it is there that, like their local fire department, whether I can walk them through, a way to get the person out of the elevator. Because even if I left right away to go to Beemer, that person is going to be in the elevator for an hour and a half to two hours. So we can generally walk somebody through how to get somebody out safely without ripping the doors down like some fire departments like to do. [LB306]

SENATOR McCOLLISTER: Thank you. [LB306]

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SENATOR HARR: Thank you, Senator McCollister. I have a question. What does it take or what are the requirements to become a licensed elevator mechanic? [LB306]

BOB SACKETT: Well, when this bill was first introduced, I was kind of on the outside looking in because I'm an independent. I don't belong to the union, but I was grandfathered in. I've been carrying a...they call it, carrying the bag or the wrench for 25 years and I...and they gave me that benefit of being kind of grandfathered in for a license. Right now, that's one problem I have as a small businessman is a lot of the national education is only available to large companies and union organizations that already have those programs in place. If I were allowed to have a program I would...here's some latitude. If I were to write this bill myself I would say, if we had a company of five or less employees because the people that work with me, I go out and turn a wrench. So they're right next to me learning the trade. Okay. There's no bookwork. There's...you know, we talk about the code when we're traveling between things and between jobs why we do this, and this is why we do this inspection and things like that. But there are national programs for education and I can imagine anywhere between five and a thousand. Steve is with the local. He can explain their educational program and a lot better than I can. They do an excellent job. I just am a small company and the equipment I sell just doesn't lend itself to that...the higher end pay, I would say. [LB306]

SENATOR HARR: Now, I just want to make clear, if I have a chairlift in my house and I sell the house, I have to have an inspector come out. No? [LB306]

BOB SACKETT: The only thing that they want to inspect is residential elevators. We currently do not inspect stairway lifts or platform lifts in homes. They would not be added. [LB306]

SENATOR HARR: Okay. How often should those be looked at? [LB306]

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BOB SACKETT: Stairway lifts? [LB306]

SENATOR HARR: Yeah. [LB306]

BOB SACKETT: At least once a year. But once again, people get frugal and you don't see them for six, seven years. You know, you call them up and you'd say, you really need to look...somebody needs to look at it, but Mrs. Smith doesn't want people in her house for whatever reason. But residential elevators, wheelchair lifts all should be looked at at least once or twice a year depending on the usage. [LB306]

SENATOR HARR: Okay. Thank you. Senator Johnson. [LB306]

SENATOR JOHNSON: A follow-up. I asked Senator Nordquist, and maybe there's others behind you, how many are in your company? [LB306]

BOB SACKETT: I have currently two right now besides myself. [LB306]

SENATOR JOHNSON: Okay. Maybe this doesn't apply then, but if you send your repairman out there to...can he repair that himself if there's something wrong or do you have to be the one? [LB306]

BOB SACKETT: Right now, currently, I am going with everybody on installing. [LB306]

SENATOR JOHNSON: You are going. [LB306]

BOB SACKETT: Yeah, I carry a bunch of hats. I'm the owner, the boss, and the guy...and the educator, you know. I would love to be able to...be able to have a program that meets your state requirements to have a training program so I could turn people loose, and that's not the right way to say it. [LB306]

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SENATOR JOHNSON: Yeah, but right now you don't have any...I mean, you're...you are it. (Laugh) [LB306]

BOB SACKETT: Well, yeah, yeah, and the guys I have working for me. [LB306]

SENATOR JOHNSON: That's fine. Okay. Thank you. [LB306]

SENATOR HARR: Any follow-up? Seeing none, thank you, Mr. Sackett. I appreciate it. [LB306]

BOB SACKETT: Thank you very much. [LB306]

SENATOR HARR: Anyone else? Welcome, Mr. Simpson. [LB306]

STEVE SIMPSON: (Exhibits 2-10.) Good afternoon, Business and Labor Committee. My name is Steve Simpson, S-i-m-p-s-o-n. I am the business representative/financial secretary for the International Union of Elevator Constructors, Local #28. And my local union and my international supports this legislation. This is a safety bill. I have to make sure everybody understands. Please do not confuse the inspection process with what we're trying to get accomplished in this bill. The inspection process is not licensed in the state of Nebraska. The elevator contractors and the elevator mechanics are licensed in the state of Nebraska in the three counties that are represented. That is what we're looking at doing in this bill. We're looking to expand the licensing for the elevator contractors and the elevator mechanics, not the inspectors. Okay, with that being said, I do have a package that I handed out to everybody. The first letter that I have is a proponent letter. This letter comes from the National Elevator Industry, Inc., which represents six worldwide companies. Those six worldwide companies are Otis, Schindler, KONE, Mitsubishi, ThyssenKrupp, and Fujitec. This bill has got their attention. This bill is something that they have supported. So, my first letter is a proponent by them. My second letter comes from O'Keefe Elevator Company. This is an

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independent company that happens to be the largest contractor in the state of Nebraska. O'Keefe Elevator Company sends a letter in support of this bill as well. The last letter that I've got here is a letter from Schumacher Elevator Company out of Denver, Iowa. Schumacher Elevator Company is a manufacturer. They are also...do service repair and new construction. They also support the bill, especially the section that deals with agriculture allowing people that if they wish to have an inspection, they can. Okay. The Center for Construction, Research and Training letter that I have next. Basically, it was a study that was done between 1992 and 2008. It was very voluminous but I was able to print out the sheet. I could have printed all of it off but it was going to take you several days to read. But so I printed off the recommendations to prevent the elevator and escalator-related deaths and injuries. One of our senators at this board wished to know about the injuries and deaths. So I'm going to start with the North Platte injury. Keep in mind, the North Platte death, this woman was crushed by an elevator. This elevator did come down on top of her. The elevator was ran by a bicycle chain instead of hoist cables. This was installed by a welding company instead of an elevator company. This was...the bad part about this is, there's two of these out here. This one was caught, unfortunately, somebody died. The second one, apparently...I'm not sure where it's at, but they did say they built another one and put it in in another place. The next sheet deals with Houston, Texas, an area of the country that deals with...that has no state elevator inspectors and also has no state elevator licensing. In Houston, Texas, the person that died here, died when the doors were open on the elevator. He went to enter the elevator, the elevator was called to another floor. It left because somebody jumpered out the interlocks essentially, which means that when the doors are open on an elevator, the elevator is not supposed to move. But this one did and the person that stepped on, died. And this is the OSHA report for it. It gives the recommendations in there about what we...what could be done to prevent this in the future. The next one. Another death. Now, by the way, if anybody wants more, I can get more, but I don't think it's necessary. This one here deals with the woman who again with the interlocks, she was reaching into her...at her workplace, reaching into a dumbwaiter and the dumbwaiter left and left the floor and she also died. Whether this be at the UNMC or

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whether this is required...where a license is required, and where a Iowa licensed elevator mechanic worked for many weeks on several elevators, or Thayer County Courthouse where a license is not required, where I installed the elevator at Hebron, or Saunders County Courthouse where a license is not required and I installed the elevator, in Saunders County Courthouse, or in Minneloosa Elementary School, where I also installed that one. This is a safety bill. This is...this is about protecting people in counties that have less than 100,000 residents. The companies, the union, the nonunion, the large companies, the small companies, all of the industries in unison on this bill. Thank you. [LB306]

SENATOR HARR: Thank you, Mr. Simpson. Any questions? Senator Johnson. [LB306]

SENATOR JOHNSON: Not because you brought up Saunders County, which is one of my counties, but what's the...is there any penalty, or let's say somebody...this goes into effect, we've got a safety bill. For somebody building a nonapproved lift, elevator, whatever, and is there any penalty in the one case where they rerigged the wiring so the thing went without the safety, and is there any penalties for that type of incident? [LB306]

STEVE SIMPSON: Through the licensing, yes. And that's stated in the Conveyance Safety Act. Again the act doesn't change, it just expands. So they're not...the whole idea here is again to...you can lose your license. You can come before a board and they can remove your license. [LB306]

SENATOR JOHNSON: But I'm talking about the offer...or the person that has the church or whoever that has the elevator and... [LB306]

STEVE SIMPSON: Oh, if the church or somebody has an elevator and somebody did miswired something on the... [LB306]

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SENATOR JOHNSON: No, or somebody in the church rewires it. [LB306]

STEVE SIMPSON: Oh, I would assume that would be a legal issue. I don't know.  
[LB306]

SENATOR JOHNSON: Okay. I just wondered if this is going...because somebody could rewire something and say, oh, that's right, they're coming next week to inspect the elevator so we put it back. [LB306]

STEVE SIMPSON: I suppose they could. [LB306]

SENATOR JOHNSON: Okay. [LB306]

SENATOR HARR: Senator McCollister. [LB306]

SENATOR MCCOLLISTER: Okay. Currently the licensing laws apply only to three counties? [LB306]

STEVE SIMPSON: That's correct. [LB306]

SENATOR MCCOLLISTER: So, there is no requirement for a license in the other 90-some counties. [LB306]

STEVE SIMPSON: Okay. Yes, sir. [LB306]

SENATOR MCCOLLISTER: So, no obligation to get a certification when you put one in, isn't that correct? [LB306]

STEVE SIMPSON: Well, you're again confusing, sir, the inspection with the licensing of the mechanic. The inspection is the certification section in getting all of that stuff to the

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state as required. [LB306]

SENATOR McCOLLISTER: So, if I'm in X, Y, X County and there's no requirement for inspection, there's no obligation. [LB306]

STEVE SIMPSON: No, sir, they're all required to have inspections. [LB306]

SENATOR McCOLLISTER: Say again. [LB306]

STEVE SIMPSON: They're all required to have inspections. [LB306]

SENATOR McCOLLISTER: Is that correct? Okay. I understand. [LB306]

STEVE SIMPSON: Yes, sir. There was a question earlier about manpower. I don't know if anybody wants to know that but if you wish, there's 5,500 elevators in the three counties. There's 1,700 elevators that the state is aware of in the counties that are not represented. There's over 20 licensed elevator mechanics that work out in western and central Nebraska currently, or if they don't have a license, they can get a license. Chadron was brought up. There's...Kone Elevator comes out of Rapid City, South Dakota to take care of that. Scottsbluff, Kone Elevator comes out of Cheyenne, Wyoming to take care of that. There are three...O'Keefe has two people that live in Kearney, one in Kearney, one in Grand Island. Otis has a person who lives in Grand Island. There's people who leave the city of Omaha and spread out all over the place to run routes out there all the time. There's plenty of coverage for all the people out there. Your area of the state, I can actually tell you the mechanic and you probably know him because you probably have seen him before, sir. But he works with O'Keefe and I know that. So it's also \$100 for a license. I paid for my license. All of the guys pay for their own license. It's \$75 for a second or to get your license renewed. [LB306]

SENATOR HARR: Okay. Senator Crawford. [LB306]



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SENATOR CRAWFORD: Thank you, Senator Harr. So I just to be very clear. Inspections are required in all counties, you just said. [LB306]

STEVE SIMPSON: Yes. [LB306]

SENATOR CRAWFORD: And then the people who conduct those inspections in the counties, are licenses required for the people conducting those inspections? [LB306]

STEVE SIMPSON: The inspections run by the state... [LB306]

SENATOR CRAWFORD: Oh, by the state. Okay. [LB306]

STEVE SIMPSON: ...are done by the state and they are not, or the state has hired another inspection group to come in and do that. And they do not require them either. There are inspections that are being done...annual inspections being done or actually tests that are being done by licensed elevator mechanics in all the counties in the state, yes. [LB306]

SENATOR CRAWFORD: I think what you're trying to stress is that what the bill changes is requires the people doing the repairs and installation to have a license. [LB306]

STEVE SIMPSON: We want them to know what they're doing, to know the codes. Not be able to do something...you might be mechanically capable of doing a lot of things, but if you don't know the code, you're going to do something that's not...and not intentionally, I'm sure, but you're going to ignore a safety issue that's going to cost somebody something, like a finger or a life. [LB306]

SENATOR CRAWFORD: Thank you. [LB306]

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SENATOR HARR: Thank you. Any other questions? Seeing none, thank's for coming down, Mr. Simpson. Appreciate it. [LB306]

STEVE SIMPSON: Thank you. [LB306]

SENATOR HARR: Any other proponents on LB306? [LB306]

CRAIG CLABAUGH: Good afternoon, Senator Harr and members of the committee. My name is Craig Clabaugh, C-r-a-i-g C-l-a-b-a-u-g-h. I'm just here as a representative of Otis Elevator and I don't have much more to offer than Steve. You have our letter. We agree with National Elevator Industry, Inc. We see this as, basically addressing safety concerns and so we're definitely for that. As far as part of the comments that I'll say is that we feel that it would be beneficial to also have additional people on the elevator board. Right now from what I can understand, there's not many of the larger companies on the board for the elevator...for the elevator committee. So we see that as one advantage to this bill. We also agree that residential elevators...that the residential elevators don't necessarily need to be licensed every year but that the scope...that they should be viewed differently than churches and schools. But lifts and those kind of things, in churches and schools where the public is using should definitely be looked at. And that's about all I have. [LB306]

SENATOR HARR: Well, thank you, Mr. Clabaugh. Any questions? Where are you from? [LB306]

CRAIG CLABAUGH: We have an office in Omaha, but I reside in Des Moines, Iowa. [LB306]

SENATOR HARR: Okay. Well, thank you for coming to Nebraska. I appreciate it. [LB306]

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CRAIG CLABAUGH: Thank you. [LB306]

SENATOR HARR: Any other proponents? Opponents? Commissioner Albin. [LB306]

JOHN ALBIN: (Exhibit 11) Good afternoon, Chairman Harr and members of Business and Labor Committee. Again for the record, my name is John Albin, A-l-b-i-n, Commissioner of Labor, and I'm appearing here in opposition to LB306. The department has no objection to the changes proposed in Sections 1, 2 and 4 of LB306, but does oppose the changes proposed in Sections 3 and 5. The changes proposed in Section 3 would expand the elevator inspection program to platform lifts and chair stairway lifts. Platform lifts and stairway chairlifts have been exempt from inspection or regulation in Nebraska since 2007. The infirm and the disabled who are the primary users of platform lifts and stairway chairlifts have not contacted the department asking for the regulation of these types of conveyances. I'll skip over the part of my testimony about the conflict between Sections 48-2507 and 2508 regarding the residential elevators. I think I have a good idea what Senator Nordquist...how Senator Nordquist would propose to resolve that problem. Currently all elevator repairs and installations in Douglas, Sarpy, and Lancaster Counties must be performed by a licensed elevator mechanic or contractor. In the remainder of the state, the owner of the conveyance is free to choose whomever the owner wants to install or repair a conveyance. Section 5 of LB306 would expand the requirement that installation and repairs be done by a licensed mechanic or contractor statewide. Our state elevator inspector informs me of the states adjoining Nebraska, only Colorado has an elevator mechanic and contractor statute that is similar to Nebraska's program. Consequently, an elevator mechanic or contractor from other adjoining states would not be entitled to reciprocity when seeking licensure in Nebraska. Whether additional mechanics would choose to become licensed in Nebraska if LB306 passes is not known. Finally, LB306 proposes to strike the provision of existing Section 48-2512 that allows nonmechanical maintenance of a conveyance to be done by someone other than a licensed elevator mechanic. The department is unaware of any problems that have arisen due to nonmechanical maintenance of an elevator by persons

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other than licensed elevator mechanics and is not sure why this change is being proposed. That concludes my testimony and I would be happy to try and answer any questions. [LB306]

SENATOR HARR: Thank you, Commissioner Albin. Any questions for Commissioner Albin? Seeing none, thank you for your time. Nice to see you as always. Any other proponents? Mr. Pappas. Welcome. [LB306]

JIM PAPPAS: (Exhibit 12.) Thank you, Mr. Chairman and committee members. My name is Jim Pappas, P-a-p-p-a-s. I'm here today representing the League of Human Dignity. And to give a little background, I got started in this particular issue about 2001, I think it was. Senator Nordquist and I go back a longways on this issue for when he was an aide to the senator who originally introduced the bill. The biggest problem we have...I originally got started to say a little more history. I represented pro bono a lot of small churches in rural Nebraska because they had a problem with the growing elderly patrons at the church. The old churches that were built, you came in the front door, then you went downstairs to usually a rec room or something, then upstairs. Well, the older they got, some of them couldn't go up and down, so what they want to do is put elevators in, you go up and down. But a residential elevator at that time, they could get installed for about eight to twelve thousand dollars. The commercial elevators that were required by law at that time were eighty to a hundred and ten thousand dollars. Well, a lot of these small churches with diminishing number of patrons couldn't afford the bigger ones, so they always tried to get waivers, which they were never allowed to do. And that's how I got started and then one thing led to another, I went to League of Human Dignity because as you can see the pass-out I gave you, one of the pass-outs is from Mike Schafer, he's the executive director of the League of Human Dignity. He testified on a bill almost similar, identical to this, I think in 2007. And that's his testimony. He was explaining it more in detail about why the League is against this particular bill. You'll also have a handout there that's a letter to the Department of Labor, I think back in 2009, or 2005, before that, asking about their opinion on the legislation wether or not it's needed.

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This legislation is not needed. It does not serve any beneficial for anybody. They always talk about the fatality in North Platte. The fatality in North Platte resulted in a homemade lift mechanism that would not be covered by this law if it was passed because it's on a private residency. They could still build it so it wouldn't cover. The second example you gave as a death was in the state of Texas. Now do you know how many millions of people live in the state of Texas and how many elevators are there? You know, come on. One thing, I've been around here a long time. I have yet to have one senator tell me that they had a problem...or a request from a constituent that has elevator problems. They just do not exist. This bill is not needed. It does not need to be passed and not be expanded. In fact, there is talk particularly from my client because even though we are exempted this year, we know surely that somewhere down the road they're going to try to include us in as you could hear from testimony of the people before me that were proponents. And so what we're going to probably want to do next year is try to come back in with legislation next year to go back from around 2007 and rewrite the elevator inspection bill to make it less intrusive, less government involvement, and more friendly to the people. One of the things they talk about is the licensure, people in other states. The way the system would be if they expanded it, do they get a license in the state of Nebraska from South Dakota or Kansas, was just to have a license and program now, you'd basically have to intern in this state. Some from South Dakota would have to intern in this state under licensed contractor in this state for, I don't know how long. Then become...apply to become a contractor. So that's thrown out of the questions. Also the present law if it's established to cover the whole state, to give you an example, in Scottsbluff, the hospital at Scottsbluff, say it has two operating elevators. If there's a personal injury elevator on one of these elevators, say on a Friday afternoon, under state law, that cannot be operated again if that personal injury until it is inspected or repaired. Now Scottsbluff is a long ways from here. If nobody...the major elevator companies, whoever installed it, does not have an office in North Platte or Scottsbluff, it could be Monday or Tuesday before somebody from Omaha or Lincoln drives all the way to Scottsbluff. And that is, like I said, it's a good bill on the surface if you look at it if you've had a lot of complaints from constituents. But we've gone this many years

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without it and it is a bill that is not needed. It just adds more layers of government in the day of age we're trying to get smaller government, less involvement. [LB306]

SENATOR HARR: Excellent. Thank you, Mr. Pappas. Any questions? All right, I'll ask a couple of questions then. [LB306]

JIM PAPPAS: You don't have to. (Laughter) [LB306]

SENATOR HARR: All right, just a couple. [LB306]

JIM PAPPAS: I don't want to put you out there. [LB306]

SENATOR HARR: Oh, okay. Well, I won't put you on the spot but, you know...because I do have a constituent who this is an issue for, agreed in the system. He works in elevators. [LB306]

JIM PAPPAS: We've talked about this before in the past, Senator. You've got constituents on both sides of this fence. [LB306]

SENATOR HARR: Yeah, I do, I do. And friends on both sides of the fence. But the Scottsbluff issue is...inspector could come over from Colorado, Wyoming, South Dakota. I mean, it wouldn't have to be someone from Omaha. I mean, we wouldn't have to buy it. [LB306]

JIM PAPPAS: If the bill was expanded, they would. They would have to be licensed in Nebraska before they could (inaudible). [LB306]

SENATOR HARR: They have to be...well, licensed with Nebraska but they could come from...it's \$100 to get a license and all you have to do is meet the requirements, right? [LB306]

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JIM PAPPAS: Yeah, but the requirements are kind of...you can ask the Department of Labor if they would want to come back and testify. They're kind of restrictive about how you'd become a licensed contractor from South Dakota or Kansas. The commissioner from the Department of Labor just now said, about Colorado is the only state that has a licensing procedure that's similar to Nebraska to start with. [LB306]

SENATOR HARR: Yeah, so, but nothing would prevent them from becoming licensed in Nebraska. [LB306]

JIM PAPPAS: No. [LB306]

SENATOR HARR: Okay. [LB306]

JIM PAPPAS: And Texas as big as it is, it doesn't have a license procedure, period. [LB306]

SENATOR HARR: Okay. Thank you. Senator Johnson. [LB306]

SENATOR JOHNSON: Thank you. Assuming that when the elevator is first put in, wherever it is in Nebraska, that it's put in right to code, everything is fine, a year goes by, and there's an inspection, it's still operating, what's the likelihood...or what would wear out that the inspector would look at and find and say, this could go bad in the next X number of months, days, trips, whatever, so you need to replace it. [LB306]

JIM PAPPAS: Now you're talking to a guy that doesn't sound mechanic...elevator mechanic, but I'm an old farm boy in one of my other lives too. And I've been at this long enough to know that there's certain pulleys and cables. If it's a cable operated deal that they could have a cable being frayed in places or a bearing going out of a, you know, turnbuckle at the top, or if it's a hydraulic lift one that's lifts by hydraulic, a cylinder could

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have leaks or something like that, but if there is a deficiency, if the state inspector comes out and says, deficiency, they'll usually red-tag it and say, you can't use this until you get it fixed. [LB306]

SENATOR JOHNSON: So they are...supposed to be proactive for an anticipated outage. [LB306]

JIM PAPPAS: Yeah, you bet. Yeah. [LB306]

SENATOR JOHNSON: Okay. Thank you. [LB306]

SENATOR HARR: Thank you, Senator Johnson. Any other questions? Seeing none. [LB306]

JIM PAPPAS: You said two questions. You only asked me one. [LB306]

SENATOR HARR: Oh...when are you going to be done? (Laughter) [LB306]

JIM PAPPAS: Whenever you say, Senator. [LB306]

SENATOR HARR: Yeah, thank you. I appreciate it. Any other opponents? Anyone in the neutral capacity? Seeing none, thank you very much. Senator Nordquist waives closing. What? He waved at me to say "hi" I guess. (Laughter) Oh, you're on to the next. Okay, sorry. Wait, we do have some letters, items for the record. [LB306]

JAMISON WYATT: (Exhibits 14-16.) For the record, just again, we have a proponent letter from National Elevator Industry, Inc.; also from Matt Murphy with KONE, Inc.; and Craig D. Clabaugh with Otis Elevator Company. [LB306]

SENATOR HARR: With that, we will then close LB306 and Senator Nordquist has made



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his way back up for LB493. Senator Nordquist. [LB306]

SENATOR NORDQUIST: (Exhibits 1 and 2) Good afternoon, Chairman Harr and members of the Business and Labor Committee. I'm state Senator Jeremy Nordquist from District 7 in downtown and south Omaha and here to introduce LB493, a bill that would require employers to provide paid sick and safe leave to employees. Today, too many families face serious conflicts between work and family because they don't have access to paid sick leave. Unfortunately, 39 percent of private sector workers do not have a single paid sick day. And even more unfortunate is 71 percent of low-income workers across the country do not have paid sick leave. The solution is simple, to provide a basic state standard that enables workers to earn paid sick days while protecting their jobs. Currently, this issue is being discussed around the country including our neighboring state of Iowa. Iowa has got a proposal pending that would allow workers to earn a minimum of approximately 5.5 hours of paid sick leave for every 40 hours worked, up to 144 hours per year. My bill, LB493 is a little more modest than that. It would enable employees to accrue 1 hour of paid sick leave for every 30 hours worked up to a maximum of 40 hours per calendar year if they were a full-time employee. Under the bill, employees would begin...could begin using their paid sick and safe leave on the 60th day for employment...of employment for mental or physical illness, injury, or health conditions or to care for a family member with a mental or physical illness, injury, or health condition. Fact of the matter is we all get sick and ill has no geographical boundaries. Paid sick days ensure that our kids can stay healthy. The policy, I think, certainly is good for businesses and workers and helps working families, working women and I think can lead to cost savings. In Nebraska specifically, we know that about 26.3 percent of our workers lack sick leave simply because their employers don't offer it. These are workers who don't have...who can't take a paid day to themselves when they're sick or can't take a paid day to care for a child when they're sick. These parents must make the difficult choice of taking care of their children, reducing their paycheck, or even losing their job when illness strikes, which is why nationwide parents without sick days are twice as likely as parents with paid sick days

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to send a child to school or day care sick. And we know that when children go to school not only do they...they certainly have the potential to spread disease to other children and illnesses to other children and teachers and administrators. Certainly that is not a condition that we want in our public school system or in our day cares. But not only do children benefit from their parents having access to paid sick days, but certainly businesses also benefit from the cost savings of greater work force stability, increased productivity, and disease and illness prevention. Paid sick days result in reduced employee turnover which leads to reduced costs from training and retaining employees, especially in lower wage industries where employee turnover is the highest. Paid sick days also help decrease the cost...decrease the loss of productivity of employees coming to work when they are sick. This practice is known as "presenteeism" and it's estimated that just being present but unfortunately not completing your job and being as productive as possible costs our economy \$160 billion a year. We know that two-thirds of all family caregivers are female, yet many women are not able to access the time that they need to care for themselves and their families. We know that 43 percent of women working in the private sector are unable to take a paid sick day when they are ill. And more than half of them, 54 percent, do not have a paid sick day to care for a sick child. Women make up a majority of low-wage workers. And it's estimated that 82 percent of workers who make \$8.25 an hour or less do not have paid sick days. What's worse is that one in five women with children report that they or a family member have been disciplined or fired by an employer for taking time off to care for a sick child or family member. Nearly one in four workers report that they have lost a job or were threatened with job loss for that same reason. The consequences if you think about for a single-parent family is even worse for a single parent trying to work and take care of themselves. If they take simply three and a half sick days off, that equates for their family budget to about a month's worth of groceries. And we know the impact on their family bottom line with not being able to make those ends meet. And we often see the impacts of it on the increase of public assistance and increase in government programs. In addition to the paid sick leave component, this bill also would provide paid safe leave to employees who are absent due to domestic assault, sexual assault, or stalking or for

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a family member for similar...taking care of a family member for similar reasons. Those who experience domestic violence cite the need to support their family financially as a primary reason that they are unable to leave an abusive or unsafe domestic situation. Domestic violence shelters report 74 percent of women stayed with their abuser longer because of economic reasons. In 2013, 28,700 victims in Nebraska received direct services for domestic violence and over 60,000 beds were provided for domestic violence victims in our state. Without paid safe leave that could be used to take necessary action to protect themselves and their families, domestic violence victims are in grave danger often of losing their job. Without paid leave, they are often too afraid or simply unable to seek the legal remedies, the medical treatments or counseling to find a new place to live and so on simply because of the tight economic conditions for their families. A statewide paid sick and safe leave standard would help ensure that workers have the stability and economic security to take care of themselves and their family members and certainly will help us create healthier and more productive workplaces. I handed out two things: one, a letter of support from AARP. I don't believe I see anyone in the room that will be testifying to that. The other is a statewide poll that was conducted on behalf actually of the minimum wage campaign last year. And if you turn to the second page, this question was asked on that poll. And I highlighted it for you. Just to give the poll a little credibility, on the question of the minimum wage, it shows 59 percent of Nebraskans support. And this was taken late last April, I believe. That's the actual number that the ballot measure passed with so I think it is a fairly credible poll. But it shows 61 percent of Nebraskans support requiring all businesses to provide some level of paid sick leave to their workers. So this is something that Nebraskans support, including 42 percent of Nebraskans who say they strongly support the issue. So I wanted to provide you with that to show that this is something that Nebraskans get as an issue. We think it's good policy. Workers who have paid sick leave don't abuse it. We know that half of workers who have paid sick leave don't use their paid sick leave at all. But it's important to have it there for the worker, for their families, especially low-income workers who quite frankly are living paycheck to paycheck and can't afford to not go to work, and can't afford not to go to work even when they're sick. And that certainly

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creates public health issues, but certainly economic stability issues for those families.  
Thank you. [LB493]

SENATOR HARR: Thank you, Senator Nordquist. Any questions for Senator Nordquist?  
I have a question. [LB493]

SENATOR NORDQUIST: Please. [LB493]

SENATOR HARR: On page 5, line 19, you state: "Paid sick and safe time shall be  
provided upon the oral request of an employee." Why must it be oral? [LB493]

SENATOR NORDQUIST: What would be the other option? [LB493]

SENATOR HARR: Written. [LB493]

SENATOR NORDQUIST: I guess it could be, I guess... [LB493]

SENATOR HARR: It just seems as though that way you have a record... [LB493]

SENATOR NORDQUIST: If you shoot your boss an e-mail in the morning, is that...?  
[LB493]

SENATOR HARR: What's that? [LB493]

SENATOR NORDQUIST: You would do it through e-mail or other means, is that what  
you're saying? [LB493]

SENATOR HARR: Yeah, just so there's a record so that I don't come back and say to  
my employer, I asked for it. You didn't give it to me. I'm suing. Now you...you know, we  
have something written. [LB493]

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SENATOR NORDQUIST: Yeah. That's a good point. [LB493]

SENATOR HARR: Okay. Thank you. Senator McCollister. [LB493]

SENATOR MCCOLLISTER: Sick time versus paid time off, PTO. [LB493]

SENATOR NORDQUIST: Yeah. [LB493]

SENATOR MCCOLLISTER: I understood that most companies are going to a more wider definition of time off and they include the sick time, vacations. Isn't that a more progressive way? [LB493]

SENATOR NORDQUIST: Right. And I've had a couple companies approach me about their concerns about this afterwards because we didn't specifically say that. We do have in page 4, starting on line 3, "Any employer with a paid leave policy, such as a paid time off policy, who makes available an amount of paid leave sufficient to meet the accrual requirements" under this law are fine. They're taken care of. So if somebody has that in place, they're not required to specify that portion of it as sick leave. But to your point, yeah. I mean that would be...you know, that would be great if more employers offered kind of that lump paid time off. But we think, you know, at least at a bare minimum having paid sick leave, some minimum requirement of paid sick leave is important. [LB493]

SENATOR MCCOLLISTER: So if you in fact have a PTO kind of system, you at least have to have the minimum amount of time that is encompassed in this bill. [LB493]

SENATOR NORDQUIST: Right, right. And, yeah, it's up to a maximum of 40 hours for a year. So a...you know, you're think five 8-hour workdays a week. That would be the maximum required amount. [LB493]

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SENATOR McCOLLISTER: Thank you, Senator, and thank you, Mr. Chairman. [LB493]

SENATOR HARR: Thank you. Any other questions? Senator Johnson. [LB493]

SENATOR JOHNSON: When I was in the work force and part of management, we struggled with this quite a bit and went to the combined leave type of plan. We also found out that when we did that, people that reached a cap on paid sick leave lost time, so they were getting sick periodically. We also found out that when we did that and they left, we were required to pay them for sick leave. Is that...? [LB493]

SENATOR NORDQUIST: Right. So we specific... [LB493]

SENATOR JOHNSON: That's still covered. [LB493]

SENATOR NORDQUIST: ...and I don't know if it requires it there, but we say, and actually in the same (7) on page 4: Nothing would be construed as requiring financial reimbursement upon the termination, resignation, or settlement. So there's no payout of accrued sick leave at that point. I think you do have to pay accrued--I could be wrong--but I think private sector employment does require that you pay accrued vacation time. But I think sick time is different. [LB493]

SENATOR JOHNSON: Well, we had to pay paid sick leave, not used, in our situation. And I don't know...we had to book it on our books. And even with the city of Wahoo, we had a tremendous liability because of the paid sick leave that wasn't used. [LB493]

SENATOR NORDQUIST: I know we do that as a...we do it a lot through Appropriations Committee, especially when small agencies have a hundred thousand dollar budget and they have somebody...or a couple hundred thousand dollar budget and somebody who is retiring and they've accrued \$20,000 worth of...we have to put that in the state

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budget. But I think that's...I think we do cover some paid, but it's not required I don't think. And I don't think...it certainly isn't required under this act. [LB493]

SENATOR JOHNSON: Okay. I'll look into that on our situation. [LB493]

SENATOR HARR: Senator Crawford. [LB493]

SENATOR CRAWFORD: Thank you, Chairman Harr, and thank you, Senator Nordquist. So it looks like in the bill if it's more than three days in a row, the employer might require some kind of documentation otherwise. [LB493]

SENATOR NORDQUIST: Right, right. [LB493]

SENATOR CRAWFORD: So I'm thinking someone who is in a domestic violence situation should be able to claim at least a couple of days to try to address some issues without having to prove that they're being stalked, is that correct? [LB493]

SENATOR NORDQUIST: Yeah, and that's the intent. [LB493]

SENATOR CRAWFORD: But if it's more than three, then they might have to show some evidence of that. [LB493]

SENATOR NORDQUIST: Right, right. That's exactly right. [LB493]

SENATOR CRAWFORD: Thank you. [LB493]

SENATOR HARR: Thank you, Senator Crawford. Any other questions for Senator Nordquist on Appropriations day in Business and Labor? Seeing none. [LB493]

SENATOR NORDQUIST: Thank you. [LB493]

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SENATOR HARR: Any other proponents on LB493? Ms. Mancuso. [LB493]

AUBREY MANCUSO: (Exhibit 3) Good afternoon, Senator Harr, members of the committee. My name is Aubrey Mancuso, A-u-b-r-e-y M-a-n-c-u-s-o. I'm here on behalf of Voices for Children in Nebraska. We're in support of LB493 because paid sick leave is critical for working parents. Every family wants to do what's best for their children. But without access to paid sick days, working parents may be forced to choose between their child's health and their family's economic security. The majority of parents in Nebraska are working with almost three-quarters of kids under six having all available parents in the work force. The reality is that these children get sick. On average, school age kids miss at least three school days per year due to health reasons and younger children have even higher rates of illness. In the first two years of life alone, most children have eight to ten colds. For parents without paid sick leave, any of these typically minor illnesses can result in an unplanned loss of needed income or even job loss. There's also a public health cost associated with a lack of paid sick leave. When parents cannot care for their own sick child and they must send them to child care, it takes a toll on the health of the other children as well as the child who is sick and can put the childcare providers at risk for illness as well. Paid sick leave for parents is also important to ensuring that kids can access preventative care. Without access to paid leave, parents may postpone or skip well-child visits or interrupt vaccinations or other necessary treatments. Not receiving preventative care can make children more vulnerable to serious illness in the long run. I also wanted to note for the committee that there's been research on the economic impact of paid sick days on businesses in cities and states where similar laws have been passed. There research is all giving the self-reported experience of business. So it's not empirically verifiable, but it can provide some insight into what that has been like for businesses. In San Francisco where a paid a sick day law has been in place since 2007, six out of seven employers reported no financial impact on their business. Similar research in Seattle also concluded that the economic impact was minimal. Working parents shouldn't have to choose between



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caring for a sick child or their own health and either losing a job or being unable to meet their family's basic needs. We would respectfully urge the committee to advance LB493 and we thank you for your time. [LB493]

SENATOR HARR: Thank you, Ms. Mancuso. Any questions? For the record, I have three kids under the age of six and a wife who has a real job. So I understand the sick problem. [LB493]

AUBREY MANCUSO: I have a two-year-old, so I can attest to how often they get sick. (Laugh) [LB493]

SENATOR HARR: Yeah. So thank you. [LB493]

AUBREY MANCUSO: Thank you. [LB493]

SENATOR HARR: Any other proponents? [LB493]

ROBERT SANFORD: (Exhibit 4) Good afternoon, Senator Harr and committee members. My name is Robert Sanford, R-o-b-e-r-t S-a-n-f-o-r-d. I am the legal director for the Nebraska Coalition to End Sexual and Domestic Violence, formerly known as the Nebraska Domestic Violence Sexual Assault Coalition. The Nebraska Coalition is a nonprofit organization with a mission of enhancing safety and justice by changing the beliefs that perpetuate domestic violence and sexual assault. The Nebraska Coalition's membership includes 20 nonprofit organizations providing services to victims of domestic and sexual violence across Nebraska. I am here to express the Nebraska Coalition's support for LB493. I am not here to talk about employment law, but rather to share the stories of those who could benefit from the passage of LB493. I recently contacted our membership to seek input on this bill since the 20 local programs work one on one with victims of domestic and sexual violence and their families. Here is one of the responses I received. The executive director of one local program reported that

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advocates from that program had worked with three separate individuals during the last six months who could have benefited from this bill. These three individuals could not seek services from the local domestic violence program during normal business hours due to fear of losing their jobs. All three sought protection orders. One struggled to file the application with the courthouse due to business hours. Another individual was unable to complete the filing because she only had 30 minutes for lunch. This individual was told she could not take more time than that to pursue services from the domestic violence program. Two of the three requested letters from the local program that they could submit to their bosses when asking for time off from work. This requirement was concerning to the program at the time and to me now. Not only did the victims find it humiliating, but it delayed the legal process of obtaining a protection order and thus delaying any safety that the order could have offered. I was told that the employers then required detailed information from the victims after the hearing. The legislative intent found within the Protection from Domestic Abuse Act states in part that the intent of the act is "to provide abused families and household members necessary services including shelter, counseling, social services, and limited medical care and legal assistance." Yet the stories of these three individuals suggest that victims often are prevented from obtaining a protection order or other services offered through the local domestic violence programs. It has become evident that legislation needs to pass that allows victims an opportunity to seek the support they need without the fear of losing their jobs, support that may be necessary to leave an abusive relationship. LB493 helps to alleviate the interference from an employer and can reduce the fear of financial hardship caused by lost employment that often keeps victims trapped in an abusive relationship. The Nebraska Coalition applauds Senator Nordquist for recognizing this need and bringing LB493 forward. We ask that the committee advance this bill for consideration by the full legislative body. [LB493]

SENATOR HARR: Thank you, Mr. Sanford. Any questions? Senator Crawford. [LB493]

SENATOR CRAWFORD: Thank you, Chairman Harr, and thank you, Mr. Sanford. It's

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very helpful when we are able to see specific cases and see how that impacts because that's often a question that's asked, is well, what difference does it make? And can you give a specific example? So I really appreciate you bringing those, asking for that from your members and bringing that to us. Thank you. [LB493]

ROBERT SANFORD: Absolutely. [LB493]

SENATOR HARR: Thank you. Senator McCollister. [LB493]

SENATOR MCCOLLISTER: Thank you, Mr. Chairman. Thanks for appearing. I should have asked Senator Nordquist, but how many states have passed similar legislation? [LB493]

ROBERT SANFORD: I don't know the number of states that have passed something similar with regard to the domestic violence piece. It is something that I can request counterparts across the country and find that information out and get to you. [LB493]

SENATOR MCCOLLISTER: Thank you. [LB493]

SENATOR HARR: Any other questions? Thank you, Mr. Sanford. I think this is one of your first times in front of Business and Labor. [LB493]

ROBERT SANFORD: Definitely the first time in front of this committee. (Laughter) [LB493]

SENATOR HARR: Well, welcome. Thank you. A pleasure to see you. [LB493]

ROBERT SANFORD: Thank you. [LB493]

SENATOR HARR: Any other proponents? A regular. [LB493]

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RODNEY D. VLCEK: A regular. Thank you. I'll be real brief. My name is Rodney D. Vlcek, spelled R-o-d-n-e-y D. V-l-c-e-k. I am president, secretary/treasurer of the Nebraska State AFL-CIO and we wholeheartedly endorse and support LB493, the safe pay, paid sick leave act that Senator Nordquist has introduced. I don't think...and this is just me personally, I don't think people understand the tragedy of domestic violence. I don't think they understand not only the physical trauma, but the emotional and psychological trauma that they have to endure. And as the previous testifier stated, that when you have to go at certain times to file for a protection order and the embarrassment of some of the questions that you have to answer and the emotional effect that it has on your children and your neighbors surrounding, I think this is just a small way of just trying to alleviate some of the tension and the emotions that are in there. So I would wholeheartedly hope that you would move this forward. And I'd be happy to take any questions. [LB493]

SENATOR HARR: Senator McCollister. [LB493]

SENATOR MCCOLLISTER: Thank you, Mr. Chairman. Thanks for appearing again. [LB493]

RODNEY D. VLCEK: Thank you. [LB493]

SENATOR MCCOLLISTER: How many collective bargaining agreements would have provisions that would be similar to what this bill would encompass? [LB493]

RODNEY D. VLCEK: You know, I could find that information for you. I have to tell you, just from my own personal experience of working for the United Steel Workers before I became president, we never had paid sick leave. We never, ever had that. We...you know, obviously with the Family Medical Leave Act, if there were some trauma like that there would be ways you could get around that. And a lot of times the employers that I

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worked for were very good about, you know, giving you time off when you needed to be. But there was nothing in our personal collective bargaining agreement for that. [LB493]

SENATOR McCOLLISTER: So there's nothing in the contracts that would give you a certain amount of days, time off for sick leave. [LB493]

RODNEY D. VLCEK: No, not in mine, not mine personally. No. [LB493]

SENATOR McCOLLISTER: Okay. [LB493]

RODNEY D. VLCEK: We never had it. [LB493]

SENATOR McCOLLISTER: Paid, PTO. Are you familiar, are there any labor agreements that have gone to that approach versus...? [LB493]

RODNEY D. VLCEK: There may be some. And mine is not paid. Ours is just personal time off, but it's not paid. It would be unpaid. [LB493]

SENATOR McCOLLISTER: Okay. Thanks for appearing. [LB493]

RODNEY D. VLCEK: Okay. You bet. [LB493]

SENATOR McCOLLISTER: Thanks, Mr. Chairman. [LB493]

SENATOR HARR: Thank you. Any other questions? [LB493]

RODNEY D. VLCEK: Thank you. [LB493]

SENATOR HARR: If not, thank you very much. Welcome. [LB493]

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MIKE MARVIN: Good afternoon, Senator Harr, members of the committee. My name is Mike Marvin; that's M-i-k-e M-a-r-v-i-n. I'm the executive director of the Nebraska Association of Public Employees. We are the union representing the vast majority of state employees. My original intent was not to testify on this bill, that I had just signed in support of this bill. We wholeheartedly do support this bill. But a couple issues were raised that I thought possibly I could shed a little light upon. Senator Johnson talked about the liability of to pay out sick leave that was accumulated. Under the Nebraska Wage Payment and Collection Act which is 48-1230, there is a requirement to pay out the vacation time, the accumulated vacation time. But I believe it has been litigated and has been found that it does not apply to sick time. Now Senator McCollister raised the issue of personal time. When you lump it all as personal time, I believe it does fall under that. I can't...I don't know of a case and I can't cite you a case, but I believe it does fall under the Nebraska Wage Payment and Collection Act and it must be paid out at discharge. You also raise the issue of collective bargaining agreements. The state employees, we have paid sick leave in our collective bargaining agreement. We also represent employees at Richardson County. We have it there. I worked for Metro Area Transit in Omaha before I came to work here and there was no paid sick time in their collective bargaining agreement. So I mean, we can't say that each union has it. We can't say that each union doesn't. But...well, we can say that each union doesn't. It's up to the individuals and what they place their value on at their contract negotiations. So that's...it's not in every contract. Now the state does pay out upon retirement up to 480 hours of your accumulated sick time. That is by statute and it is also in our contract. A great many of our state employees leave and have 2,000 to 3,000 hours of sick leave on the books. They're your loyal employees. They come to work. And they give up a lot of that sick time, which we've tried to negotiate that up and haven't been successful. So that's where that's at. Hopefully that cleared up a couple answers or at least gave you a place to go look for a few answers. With that, I conclude my testimony. [LB493]

SENATOR HARR: Thank you. Senator McCollister. [LB493]

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SENATOR McCOLLISTER: Thank you, Mr. Chairman. Mr. Marvin, I think you're a resident of District 20 if I'm not mistaken. [LB493]

MIKE MARVIN: No, I'm not, 26. [LB493]

SENATOR McCOLLISTER: Okay. Had the wrong guy. Sorry. [LB493]

SENATOR HARR: All right. Any other questions? Thank you, Mr. Marvin. [LB493]

MIKE MARVIN: Thank you. [LB493]

SENATOR HARR: Additional proponents. [LB493]

JAMES GODDARD: (Exhibit 5) Good afternoon. My name is James Goddard; that's J-a-m-e-s G-o-d-d-a-r-d, and I'm the director of the economic justice and healthcare access programs at Nebraska Appleseed. Nebraska Appleseed is a nonprofit legal advocacy organization that fights for justice and opportunity for all Nebraskans. I'm happy to be here today to support LB493. We've already talked a bit about working hard and taking care of each other are Nebraska values. And with that in mind, it's crucial that our state has policies that support a strong work force, productive employees, and healthy families. What this means, at least in part, is that workers should not have to choose between financial stability and their health or safety. Unfortunately, few employees, and particularly low-income employees are shielded from economic instability that can result from taking time off of work for their illness or for that of a loved one. Lack of paid leave is particularly challenging for low-income mothers. In 2012, there were almost 27,000 female-headed, low-income working families in Nebraska. These working mothers are often forced to choose between caring for themselves or their families or losing wages. Victims of domestic violence are at even greater risk. According to the National Network to End Domestic Violence, up to half of all victims have lost a job due at least in part to their experience with domestic violence. LB493

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helps to address these issues by allowing employees to accrue up to 40 hours of paid leave annually. The bill allows employees to use paid leave for their own physical or mental needs or that of a loved one. And it also helps victims of domestic violence gain economic security which can often be what is needed to get out of an abusive situation. In short, the bill helps to ensure the health and stability of Nebraska's work force. And with that, I would urge the committee to advance the bill. [LB493]

SENATOR HARR: Thank you, Mr. Goddard. Appreciate your time. Any questions for Mr. Goddard? Senator Crawford. [LB493]

SENATOR CRAWFORD: Thank you, Chairman Harr, and thank you for your testimony and your notes here as well. So what I think I see in the footnotes is the percent of low-wage workers who would tend to have sick days. Could you respond to, clarify that? That's note one, how many low-wage workers tend to have paid sick days. [LB493]

JAMES GODDARD: Well, that's what you tend to see through this article is that folks that are higher income earners tend to have...maybe have vacation time, but they certainly have paid time more generally speaking, according to this, 85 percent of higher wage workers are actually getting paid sick time whereas if you're a lower wage worker, we're looking at just around 30 percent of folks. And this is a national statistic. [LB493]

SENATOR CRAWFORD: A national survey. Okay. Thank you. [LB493]

JAMES GODDARD: I'm also pleased to see you jumped straight to footnotes, Senator. [LB493]

SENATOR HARR: Thank you, Senator Crawford. Any other questions? Seeing none, thank you for coming today. [LB493]

JAMES GODDARD: Thank you. [LB493]



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SENATOR HARR: Any other proponents? [LB493]

TERESA LARSON: (Exhibit 6) My name is Teresa Larson, T-e-r-e-s-a L-a-r-s-o-n, and I'm just here as a private citizen today. The topic of safe leave is extremely important to me. Despite two master's degrees, one even in social work with an entire class on family violence, I found myself in an unhealthy relationship four and a half years ago. It didn't get violent until I tried to break up with him. And one night he pulled out a gun and chased me down the block. The police took him away that night, but the next day I was still very, very shocked, scared, and in crisis mode. I was lucky that my place of employment was willing to be flexible. I was able to go to the WCA and talk to them about what my next steps would be. I was also able to take time off from work to go down to the courthouse and pick up a protection order application. Furthermore, my friend went through the same kind of domestic violence issues about two years ago. And she reached out to me for help because she knew I'd already navigated the domestic violence response systems in Omaha. Having a good job, I was able to switch my hours around or take paid time off in order to go with her to the WCA and to the courthouse. I'm not sure if you know how long it can take to complete a protection order, but the process can take a couple of hours. Meeting with a crisis counselor at the WCA can take another hour. If the abuser appeals your protection order, then you might need a lawyer. My friend spend an afternoon at Legal Aid applying for legal help, but unfortunately they had to deny her application because they'd represented her abuser in the past. That meant she had to spend a couple more hours applying for legal help with the WCA and finally meeting with their lawyer to discuss her case. When her abuser vandalized her personal car and then her rental car and then threw bricks through her apartment windows, she needed to move. But without deposit money available, she had to spend another morning working with a nonprofit that was graciously able to help her pay her new deposit. Two Men and a Truck donated a truck and moving help when she was ready to move. But that took another day as well. When he appealed he protection order, she had to spend a couple of hours in court. My own experience in court required

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me to take an entire day off from work. Since our case hadn't been resolved before the designated lunch break, we all had to return to court in the afternoon. Domestic violence response can take so much time. And it's not surprising that some women or men just give up, especially when they cannot take paid time off from work. Some women cannot miss work, especially on short notice or they will be fined or penalized. Some of my good friends, some women desperately need each and every dollar they earn in order to provide for children and keep food in the refrigerators. I know I'm lucky to have vacation and sick hours. And I'm grateful that I was able to take that time off when I needed it. I have been through the process, navigated the domestic violence response systems, and I appreciate this bill tremendously. Domestic violence isn't talked about very frequently and it took me a while to overcome guilt and embarrassment about my own situation. During this time, however, I've realized that lots of women and men have been through the same thing as me, lots of normal, smart, women have found themselves in a domestic violence situation. The National Domestic Violence Hotline says that more than one in three women and more than one in four men in the United States have experienced either rape, physical violence and/or stalking by an intimate partner in their lifetime. That's one-third of women. That means this affects a tremendous amount of women in Nebraska. And it also means that this affects a tremendous amount of fathers and brothers and grandfathers and uncles and close family friends who have loved ones who have been affected by this whether or not they know it. A third of Nebraska's women have possibly had to decide between work hours and crisis visits to the WCA or a courthouse. This bill means that the senators are showing one-third of women in Nebraska that you care about their safety. Thank you. [LB493]

SENATOR HARR: Great. Thank you very much for coming in here today. Any questions? Thank you for waiting patiently. Appreciate it. [LB493]

TERESA LARSON: Thank you. [LB493]

SENATOR HARR: Any other proponents? Opponents? Good afternoon, Mr. Sedlacek.

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[LB493]

RON SEDLACEK: (Exhibits 7 and 8) Good afternoon, Chairman Harr and members of the Business and Labor Committee. For the record, my name is Ron Sedlacek, and that's spelled S-e-d-l-a-c-e-k. I'm here on behalf of the Nebraska Chamber of Commerce. The State Chamber, their labor relations council did meet and reviewed LB493 and they asked that the State Chamber come forward and appear at the hearing to express our concerns regarding the proposed legislation. The council believes that a paid sick leave mandate as outlined in the act would limit an employer's flexibility in designing a benefits package that would meet the needs of their unique work force resulting in significant costs for some employers as well as a potential loss to employees who prefer other benefits rather than paid sick leave. I thought Mr. Marvin made that point from the other end during his testimony where he said collective bargaining units in bargaining place priorities as to which...you know, what type of benefits should be bargained for. It's kind of interesting, too, that he testified on the bill in the sense that this bill explicitly excludes state and local government. This only applies to private employers, not the state, not local governments. The council, our council advocates rather that a one-size-fits-all government approach where federal and state laws often conflict and compliance is determined under regulatory silos, that private employers should have the flexibility to respond to the diverse needs of individual employees or employees as a groups and employers and that they reflect different work environments, union representation, industries, and organizational size. Of course this bill applies to any private employer with four or more employees. Now some businesses that do have paid sick leave may be more generous than what the bill proposes. And the bill certainly does not prohibit more generosity. They may like to see their competitors brought up to the same standards, and for that reason would say, sure, why not, have a policy like this statewide. Others may say this is a great bill because now I see my benefits have been so generous I can reduce them down to the common denominator. So it works both ways. While proponents claim that everyone benefits, a fair-minded look at studies based on the San Francisco, Seattle, and

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Connecticut experiences suggest this type of mandate is not the cure-all that advocates claim they are. In other words, there is a growing body of evidence now that shows that mandatory paid sick leave laws, no matter how well-intentioned, are not the cost-free endeavors supporters make them out to be. And initial studies are showing the pressure on some employers' bottom lines are often translated to unintended consequences for some employees. Ironically, it was a pro paid sick leave advocacy group that was the first to document that paid leave laws are actually harming the people they're supposed to help. A 2011 study from the Institute for Women's Policy Research found that nearly 30 percent of San Francisco's lowest wage employees reported layoffs or reduced hours at their place of work following the mandate's passage in that city. A separate survey released by the Urban Institute found that some employers in San Francisco had scaled back on employee bonuses, vacation time, and part-time help to adapt to the law's costs while there was little improvement in employee turnover. A study of the services sector conducted one year after the Seattle city ordinance was passed indicates that businesses have taken a number of steps to make ends meet.

Specifically, 15.7 percent raised prices, 17.3 percent required employees to pay more for other benefits or eliminated benefits in some cases altogether, and 18.3 percent reported reduced hours or cut jobs. Overall, one in five businesses in the study--and it was a 2013 study, a year after--took at least one cost-saving measure or revenue-increase measure with employees often taking the brunt of the new law's costs. There's also documentation in regard to Connecticut's law. Connecticut is the first state to have passed the law in this regard. California has followed. There are proposals in a number of states, a nationwide movement. But actually, I believe it's fair to report that there are more states now that have enacted laws that would preempt cities from enacting these types of ordinances than there are states that have actually passed paid leave laws. I do have copies, and I have plenty more information to give to you. All I would say is admittedly more research needs to be done to ascertain exactly what this proposal would cost Nebraska's employers and a full accounting of the legislation's impact in other jurisdictions is going to take additional time. Initial studies suggest that the law has not been cost free. There have been consequences for employees. And we

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should take these consequences seriously with the bill under consideration. I do have copies of paid sick leave in Connecticut, which is a pilot study of businesses' responses to the law. So this is the first state experiment. [LB493]

SENATOR HARR: Great. Thank you. [LB493]

RON SEDLACEK: And another in regard to the paid sick leave in Seattle and their employer experiences. [LB493]

SENATOR HARR: Great. Thank you very much. I appreciate it. Any questions for Mr. Sedlacek? Yes, Senator Crawford. [LB493]

SENATOR CRAWFORD: Thank you, Chairman Harr, and thank you. I just wondered when you say that employers want more flexibility, what do you mean besides flexibility to not offer it at all? [LB493]

RON SEDLACEK: Well, that's exactly the case. There's got to be a lot of employers that are looking at this legislation then if you assume otherwise that are saying...and slapping themselves in the head and saying, well, why didn't I think of that? I could have offered paid. And this would have been economically better for me. That's generally not the case. It's usually smaller employers, those that just cannot afford to offer that benefit. Most employers want to retain their work force. They've trained them. They've invested in them. They want to keep them on the job. They don't want turnover. And if competition is paying a number of benefits including sick leave benefits, they either are going to choose to compete or to continue as they are and may lose those employees. So there is value in promoting family-friendly workplaces and promoting that for employment prospects. [LB493]

SENATOR HARR: Do you have a follow-up? [LB493]

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SENATOR CRAWFORD: So there might also be pressure, just not sort of a peer pressure, not to offer them for the sake of business competitiveness, sort of like hockey players not wanting to wear a helmet. But if they're required to wear a helmet and everyone is required to wear a helmet, then they sort of like that better. But they're never going to admit it in public. (Laugh) So I guess...and sometimes some baseline, very minimal requirements then allow all the employers to be on the same playing field as opposed to feeling like a smaller employer is having to compete against a larger employer that has an easier time offering that kind of benefit. [LB493]

RON SEDLACEK: We could have a cookie-cutter, one-size-fits-all program that government says this is how all private employers shall act. [LB493]

SENATOR CRAWFORD: But I don't think that's what this is. This is a bare...it does not require a single response. It requires a baseline minimum above...but allows paid time off or allows, you know, more. So I would contest your claim that it's cookie cutter in the sense that it's a basement or floor. [LB493]

RON SEDLACEK: And Congress, the U.S. Congress has struggled with this because when the first Family Medical Leave Act was being proposed and there was talk of doing some kind of wage payment or reimburse or paid leave of that nature, they...that's when it actually went up to the 50 or more employee level trying to take care of the small businesses. And they knew the economic impact. And there was quite a bit of study on that issue, not just one hearing on it. So I think that's important to note. The other is that they realize that there are, as Senator mentioned, Senator McCollister, there's a lot of employers that let's say, for example, have paid time off. You don't have to give a reason then. You've earned it or you may have wellness days in addition. All kinds of different benefit packages out there, so you earn that. And right now with the paid time off policy, you don't even have to tell the employer why, just say I'm going to take off a couple of days. It could be for sick, for vacation, for whatever. And the fear is now we have paid time off. And how are we going to document this? We're going to

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have to have a separate carve out now for paid family leave. And how are we going to account for this and how are we going to book it as separate and then still be in compliance with the documentation and then have the compliance risk, legal risk? And the legal risk would be sort of like, okay, so someone applies for the paid sick leave and then they find out from their Facebook friend that they...gee, they're skiing in Colorado for a long weekend. Section 5 of the bill says you can't even call it into question. It explicitly says you can't call that...you can't discipline someone who even mistakenly takes it. So the bill goes a lot further than the California law too. California has a lot more exceptions. [LB493]

SENATOR CRAWFORD: So just to follow up on that in terms of flexibility. If an employer currently offers paid time off, it's my understanding in the bill that they wouldn't have to carve out or make exception if they have that similar sufficient amount of paid time off. They can continue their existing policy. [LB493]

RON SEDLACEK: If they have paid sick leave, yes, you're correct. [LB493]

SENATOR CRAWFORD: If they have... [LB493]

RON SEDLACEK: If they have paid time off, that is where the problem occurs because you will have to allocate then. [LB493]

SENATOR CRAWFORD: All right. We can follow up with that maybe then on closing to make sure. [LB493]

RON SEDLACEK: Or if they give wellness days, then the question becomes do we allocate that day or the paid? Or maybe we just get rid of wellness days. [LB493]

SENATOR CRAWFORD: Thank you. [LB493]

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SENATOR HARR: Senator McCollister. [LB493]

SENATOR MCCOLLISTER: Thank you, Chairman Harr. You indicated, Ron, that there were some trends occurring nationally, that some states are outlawing these kinds of policies. Some states are bringing them in. If you have those studies, I'd be interested to see what the trends are. [LB493]

RON SEDLACEK: I can give you a current list of states. And I certainly will back down from this, but I believe there are at least five or six states now that have a policy...have state laws that say local subdivisions of government shall not enact paid leave programs, paid sick leave programs. [LB493]

SENATOR MCCOLLISTER: There's no such provision in Omaha or Lincoln, correct? [LB493]

RON SEDLACEK: No, not that I know of. [LB493]

SENATOR HARR: Senator Johnson. [LB493]

SENATOR JOHNSON: Yeah, under GAAP or generally accepted accounting principles, is a private employer required to pay paid sick leave if that's within their policy when they leave? [LB493]

RON SEDLACEK: Depends on what type of policy. Vacation we know for certain. There was a court case that Mr. Marvin had alluded to. I believe he correctly described that and that was that if you have paid time off, the question becomes is it paid time off for vacation or for sick? And so, they kind of threw the dice and said we're just going to consider it vacation time, therefore, you better book it. [LB493]

SENATOR JOHNSON: Okay. I'll keep looking for the answer then. Thank you. [LB493]



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SENATOR HARR: Thank you. Appreciate your time, Mr. Sedlacek. Mr. Hallstrom, welcome. [LB493]

BOB HALLSTROM: (Exhibit 9) Chairman Harr, members of the committee, my name is Robert J. Hallstrom, H-a-l-l-s-t-r-o-m. I appear before you today as the registered lobbyist for the National Federation of Independent Business in opposition to LB493. I, too, would suggest that our members have made it pretty clear to us in different surveys and pollings that we take that they prefer not to have a government mandate in this area or other areas. They do like to retain the flexibility to determine what the best package of wages and benefits and so forth that are best in the workplace for their employees and for themselves as employers. I think Mr. Sedlacek might have hacked into my computer because he cited the same Institute for Women's Policy Research study that I have in my testimony indicating that nearly 30 percent of the city's lowest wage employees reported layoffs or reduced hours at their place of work following adoption of the paid sick leave mandate in that city, also indicating that employers in cities in which mandated sick leave has been adopted have responded in a manner of perhaps negative ways by reducing vacation time, reducing bonuses, reducing other employee benefits, requiring employees to pay additional percentages of their health insurance and so forth. And then on page 2 of my testimony, perhaps one issue that hasn't been addressed here, particularly burdensome for small employers. When you talk about having to pay for sick leave when someone is clearly not on the job, not performing the services in order for that employer to bring profits in, they have to do the work nonetheless. And somebody has to fill in for that employee that's not in the workplace, either hiring somebody part time which is an additional expense, the employer doing it him or herself, things of that nature that add additional cost to the bottom line. So with that, we're opposed to the legislation. Be happy to address any questions that you might have. [LB493]

SENATOR HARR: Thank you, Mr. Hallstrom. Any questions? Senator Crawford.

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[LB493]

SENATOR CRAWFORD: Thank you, Chairman Harr. Is there any kind of government mandate you could imagine your members ever supporting? [LB493]

BOB HALLSTROM: It would probably be few and far between, Senator. (Laughter)  
[LB493]

SENATOR CRAWFORD: Thank you. [LB493]

SENATOR HARR: Child labor laws. Any other questions? Thank you... [LB493]

BOB HALLSTROM: I would suggest safety in the workplace and some of those things are issues that you probably haven't gotten as much push back from employers.  
[LB493]

SENATOR HARR: Appreciate it. Thank you. [LB493]

BOB HALLSTROM: Thank you. [LB493]

SENATOR HARR: Any other opponents? [LB493]

ANN POST: Good afternoon. My name is Ann Post; that's A-n-n P-o-s-t. I'm here today on behalf of the Lincoln Independent Business Association in opposition to this bill. I'm going to try not to repeat a lot of what the previous two testifiers said. But in reaching out to our membership, LIBA represents about 1,300 business and individual members in the Lincoln area. When we reached out to them, most of them were very concerned about this bill. They were concerned about the bookkeeping requirements. They were concerned about providing these benefits to their college or high school employees. And they were concerned about the ability...the flexibility to provide the compensation

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package that is going to be best for their employees, especially a lot of our small employers that may just barely fall under the requirements of this act. They require the flexibility to hire exactly the amount of resources they need to grow their business, whether that be several hours a week or only a couple hours a week of work, they need that flexibility so they can incrementally grow their business. This type of government one-size-fits-all mandate just doesn't work, especially when we get to some of those...the level of some of these smaller businesses. Mandating sick leave increases the overhead costs of each employee. This increased cost decreases the employer's ability to provide part-time jobs, to provide some of these jobs that require...that have just the amount of work that they need done. And it really limits the opportunities for youth to get employment and experience in our community. And so for those reasons, LIBA opposes LB493 and would ask this committee to indefinitely postpone it. [LB493]

SENATOR HARR: Thank you, Ms. Post. Any questions? Seeing none, thank you for your time. Thanks for being patient. Next up, Ms. Siefken. [LB493]

KATHY SIEFKEN: Good afternoon, Chairman Harr and members of the committee. My name is Kathy Siefken, S-i-e-f-k-e-n. I am the executive director and registered lobbyist for the Nebraska Grocery Industry Association here today in opposition to this bill simply because we have...the majority of our employees are part-time employees. And this bill seems to require that we would have to pay sick leave for people that are working part-time jobs. And once they get 30 hours in, they would be able to get 1 hour of sick leave. And we believe that that is a benefit that should be up to the employer and that they should be able to establish the benefits that they think is appropriate in their community. Ron Sedlacek did a great job in laying out the various studies and so did Ms. Post that was before me. They did a...so I really can't add much more to that other than we stand opposed. And if you have any questions, I'd be happy to address them. [LB493]

SENATOR HARR: Well, thank you. And thank you for being brief. Any questions?

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Seeing none...oh, sorry. Senator Crawford. [LB493]

SENATOR CRAWFORD: Thank you, Chairman Harr. So I just want to clarify. Your main opposition is the part time? [LB493]

KATHY SIEFKEN: Oh, no. We're just opposed by any kind of a mandate. [LB493]

SENATOR CRAWFORD: Okay. Thank you. [LB493]

KATHY SIEFKEN: But the fact that it is...the majority of our employees are part-time employees, it's a benefit that we as employers should be able to make the decision on. [LB493]

SENATOR CRAWFORD: Thank you. [LB493]

SENATOR HARR: Thank you. Thank you, Ms. Siefken. Thanks for coming. [LB493]

KATHY SIEFKEN: Thank you. [LB493]

SENATOR HARR: Any other opponents? [LB493]

HARVEY SANKEY: Good afternoon, Chairman Harr, and good afternoon to the committee members. My name is Harvey Sankey; that's H-a-r-v-e-y S-a-n-k-e-y, and I represent the Nebraska printers group here in Nebraska. And we are opposed to this. And Ron brought up a lot of studies. I have a couple more here that he didn't mention. So maybe this will help. But we feel the employers should offer paid sick days at their own discretion. Employers best understand the benefit preferences of their employees and must maintain flexibility to meet the unique needs of their work force. Research out of the Cleveland State University found that the cost incurred by a paid sick leave policy would include lost wages for new users of paid sick leave policies and administration

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expenses incurred to operate sick leave accountability systems. The study concluded that a paid sick leave mandate would be harmful to employers noting that the cost of the mandate would outweigh the benefits. A survey of the New York City employers by the partnership of the New York City found that paid sick leave mandate would cost city employers \$789 million per year. The survey also found that small businesses and nonprofit organizations would be faced with almost 20 percent of the cost of the citywide mandate. In 2013, a study by the Employment Policies Institute found that many businesses responded to the paid sick leave mandate in Connecticut by reducing paid leave, scaling back employee benefits, cutting back on hours, reducing wages, or raising prices. About 24 percent of the employers that responded to the survey said they'd hire fewer employees as a consequence of the law, and 10 percent admitted that the law had caused them to limit or restrict their expansion within the state. Currently, there are three states, Connecticut, California and Massachusetts, that have this program right now. And I think there are a few other that are considering this in this fiscal year. That's all I have other than we represent...we have about 8,500 employees in this state with 390 facilities. So it's a...it averages out to about 22 employees per business, okay, a lot of small employees here. What you're going to have to do here is...you're not giving them the flexibility to give out a program that they feel would be fair to their employees, PTO program. And a lot of the employees that I've known in the printing industry have similar programs, paid sick leave, okay. These small employees they don't have a human resource manager, okay, to keep track of all these things. I mean, they could get into legal situations, legal problems and not know about it because they don't have the ability to check the law out and make sure they're doing the right thing. Administrative costs are going to be tremendous in this case because if you read through this law here, it has a lot of individual items on here that you have to comply with. And we don't need any more government intrusion into our business. I mean right now we're being bombarded with these extra costs whether it be EPA, minimum wage, Affordable Care Act, whatever, This is not another thing that we need. We could take care of it on our own. Let the work force...let the market take care of this on their own. Thank you. [LB493]

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SENATOR HARR: Thank you, Mr. Sankey. Any questions? Yes, Senator Crawford.  
[LB493]

SENATOR CRAWFORD: Thank you, Chairman Harr, and thank you, Mr. Sankey, for being here. [LB493]

HARVEY SANKEY: Sure. [LB493]

SENATOR CRAWFORD: Well, I guess I would wonder if you have suggestions based on sort of your small business experience of a good flexible way to handle this for low-wage employers because the other research we're is only 30 percent of low-wage employees say they have this. So it appears the market is not taking care of it for low-wage workers anyway. And I'm sympathetic to the concern about how to do it more flexibly. So I guess I'd ask if you have any suggestions of how to make it more flexible short of nothing. (Laugh) [LB493]

HARVEY SANKEY: Basically, you have to take into consideration the type of work you're doing, all right. And the printing industry, it's very competitive and you have to meet deadlines, okay. So by mandating something that can cause you to reduce, you know, the efficiencies of a printing operator takes time off. You just can't drop another person in its place to take care of that printer. It's not feasible, especially during a busy time, okay. We've had plans before. The company I worked was very, very liberal in granting time off. I was very liberal in doing it too. We didn't have very many policies in place, but if somebody came up to me and said, hey, I have a problem here. Can I take care of it? I'll go to the manager out and the supervisor and they'll say, okay, fine. We'll take care of it. I mean we never fired a person because they had an excused absence, so to speak. We worked with them. And I think a lot of employers will do that, okay. There may be exceptions. But I don't think for those exceptions that we should have a mandate here for all employees in this state. We've been...you know, to take of each

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one...I think the marketplace will decide. I mean if an employee wants to work for this printing company that has these benefits that they like, they'll go there. The other employer will say, man, I better put in some benefits here to attract some workers into my company because I need these qualified workers. And if I can't get them, I have to find a way to do it. And if they have to institute a policy where they put in a PTO situation for sick leave or whatever, they will do that. The marketplace will take care of that. [LB493]

SENATOR CRAWFORD: Thank you. [LB493]

HARVEY SANKEY: May I add one thing? Why can't the domestic violence issue be taken care of in another bill similar to the pregnancy--just asking... [LB493]

SENATOR HARR: Okay. [LB493]

HARVEY SANKEY: ...bill that was...came forward here? Why does it have to be lumped into this one? I'm thinking that maybe it should be taken care of in another bill. [LB493]

SENATOR HARR: Thank you for your testimony. Any other questions? Seeing none, thank you for coming down here today. [LB493]

HARVEY SANKEY: Sure. [LB493]

SENATOR HARR: Any other opponent on LB493? Anyone in the neutral capacity? Seeing none, Senator Nordquist, it's your time to close. [LB493]

SENATOR NORDQUIST: No one is neutral on this bill. A couple things just to clean up, some folks referenced the Institute for Women's Policy Research Study from 2011. A couple other things that might have been left out on those comments is two-thirds of employers said they support it: the paid sick day law in San Francisco. Most employers

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reported no difficulty in implementing the law. About two-thirds were unaffected of the law because they already offered paid sick time off. And even though workers can earn up to nine sick days per hour under the law, the average time taken was only three days. And 25 percent of workers reported taking no time off in the previous year. And as far as the employment effects of it, it took effect in 2007, right before the Great Recession. So that might have had some impact on the fact that employers were adjusting at that time as well. And it is...you know, it's a maximum of nine sick days per year in the law. Ours is obviously much more modest than that and I think would have a much less...a smaller impact. But even with that, San Francisco and the city has outpaced its neighboring counties in job creation since that time and last year was the best city in the country for fastest small business job growth. So that may not be sufficient evidence to say that this policy is going to create jobs. But it certainly is sufficient evidence to discredit the fact that putting this policy in place is going to scare jobs away because it certainly has not done that. You know, the talk of the market between the worker and the employer I think is important. But the issue is that the cost of not doing this doesn't just accrue between those two. It accrues to society when we have sick people going to work, when we have sick kids going to school. There are costs associated with that. So while there's a market between the worker and the employer, there is someone else bearing a cost if that action doesn't...if an agreement doesn't come to place between them to have some level of minimum paid sick leave. As far as the part-time worker, that's why we have a scale in the bill of 1 hour earned per 30 hours worked. So if you're a part-time worker, you're not going to accrue 40 hours of paid sick leave a year. You're going to accrue it at a much lower level. As far as the flexibility and the unique populations of each employer, the one thing that certainly isn't unique is that everybody does get sick. And at some point, everybody does need to take some sick time off. And I would just close to reiterate the support that we see from the survey from Nebraskans. More people supported this than the minimum wage increase that passed overwhelmingly last November. And I would encourage the committee to give it favorable consideration. [LB493]



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SENATOR HARR: Thank you. Any questions for Senator Nordquist? I have a quick question. [LB493]

SENATOR NORDQUIST: Yes. [LB493]

SENATOR HARR: Our food handlers, our waiters and waitresses... [LB493]

SENATOR NORDQUIST: Right. [LB493]

SENATOR HARR: ...I don't want a sick one handling my food. If your bill were to pass, what would their hourly wage be for their paid time off...or for their sick time? [LB493]

SENATOR NORDQUIST: Whatever their hourly wage is that they're...as far as tipped? [LB493]

SENATOR HARR: So would it be the \$2.13 or would it be the federally mandated minimum wage? [LB493]

SENATOR NORDQUIST: Yeah. You know, that's a good question as far as making up the difference. I'll double-check on that. I don't know off the top of my head as far as servers...that's a good question. [LB493]

SENATOR HARR: Okay. Senator Crawford. [LB493]

SENATOR CRAWFORD: Thank you. I'll give you a chance to respond to the question that was raised by one of the testifiers asking why it was important to put the safe leave and sick leave together. I assume part of that probably has to do with trying to reduce the...make it so a person doesn't have to admit to an employer that they're in a domestic violence situation. But I'll let you say what your logic is. [LB493]

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SENATOR NORDQUIST: That's certainly one of the main reasons and that's why we have a little window there for employees to have to make that reporting. Also, it's far...you know, if we earmark just specific amount for safe leave and then later we look at doing a specific amount for sick leave and it just makes sense to have some pooling of that. And as far the accumulation, you know, essentially all we're saying in the bill, and maybe we need to be...clarify, is that 1 hour per 30 hours, if you have additional PTO, as long as some of that is available for sick, for purposes of taking care a sick child or taking care of yourself or the domestic violence situation, that it should not run afoul at all with the policies that businesses already have. [LB493]

SENATOR CRAWFORD: So you're not requiring businesses to carve out or track if they have existing PTO that's more... [LB493]

SENATOR NORDQUIST: That certainly wouldn't be my intent. If that's the thought of individuals who are concerned about that, we certainly would be willing to work on that. [LB493]

SENATOR CRAWFORD: Excellent. Thank you. [LB493]

SENATOR HARR: Thank you, Senator Crawford. And thank you, Senator Nordquist. [LB493]

SENATOR NORDQUIST: Thank you. [LB493]

SENATOR HARR: I think we have some letters for the record. [LB493]

JAMISON WYATT: (Exhibits 10-15) Items for the record: For proponents we have a letter from Terry Werner with the Nebraska Chapter of the National Association of Social Workers; we have a letter of support from the League of Women Voters of Nebraska; we have a letter of support from Tessa Foreman with Nebraskans for Peace;

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a letter from Mark Intermill with AARP; and a letter of support from John J. Cavanaugh with Holland Children's Movement. [LB493]

SENATOR HARR: And with that, that closes LB493 and it closes Business and Labor for today. [LB493]